COASTAL BARRIERS RESOURCES SYSTEM

HEARING

BEFORE THE

SUBCOMMITTEE ON FISHERIES AND WILDLIFE CONSERVATION AND THE ENVIRONMENT

AND THE

SUBCOMMITTEE ON OCEANOGRAPHY AND GREAT LAKES

OF THE

COMMITTEE ON MERCHANT MARINE AND FISHERIES HOUSE OF REPRESENTATIVES

ONE HUNDRED FIRST CONGRESS

FIRST SESSION

ON

TO CONSIDER PROPOSALS TO EXPAND THE COASTAL BARRIER RESOURCES SYSTEM AND AMEND THE COASTAL BARRIER RESOURCES ACT

MARCH 22, 1989

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COASTAL BARRIER RESOURCES SYSTEM

WEDNESDAY, MARCH 22, 1989

HOUSE OF REPRESENTATIVES, SUBCOMMITTEE ON FISHERIES AND WILDLIFE CONSERVATION AND THE ENVIRONMENT AND THE SUBCOMMITTEE ON OCEANOGRAPHY AND GREAT LAKES, COMMITTEE ON MERCHANT MARINE AND FISHERIES,
Washington, DC.

The subcommittees met, pursuant to notice, at 10:13 a.m., in Room 1334 of the Longworth House Office Building, Hon. Gerry E. Studds (chairman of the subcommittee) presiding.

Members present: Representatives Studds, Hughes, Ortiz, Tallon, Hochbrueckner, Pallone, Unsoeld, Hutto, Dyson, Miller (Washington), Weldon, Hertel, Clement, Lowey, Bennett, Brennan, and Goss.

Staff present: Jeffrey Pike, Senior Professional Staff; Gina DeFerrari, Professional Staff; Joyce Sacco, Clerk; Lisa Murray, Research Assistant; William Woodward, Staff Director; William Stelle, Counsel; Bill Ashworth, Clerk, Oceanography Subcommittee; Tom Melius, and Rod Moore, Minority Staff.

OPENING STATEMENT OF HON. GERRY E. STUDDS, A U.S. REPRESENTATIVE FROM MASSACHUSETTS, AND CHAIRMAN, SUBCOMMITTEE ON FISHERIES AND WILDLIFE CONSERVATION AND THE ENVIRONMENT

Mr. STUDDS. The Subcommittee meets this morning to begin consideration of proposals to expand the Coastal Barrier Resources System and to otherwise amend the Coastal Barrier Resources Act.

Section 10 of that Act required the Department of the Interior to prepare a report to Congress proposing additions and deletions to the System and recommending measures to conserve the fish, wildlife and other natural resources contained thereon.

Today, we will review that report. We will examine the basis for the Interior Department's recommendations and discuss whether it goes too far, or not far enough, in its proposals for expanding the System. We will discuss the progress that has been made in achieving the goals of the Act. And we will begin a process that I hope will produce a new and improved coastal barriers resources law by the end of the year.

I want to emphasize at the outset that this is a quintessentially non-partisan issue. The goals of the Coastal Barriers Resources Act cannot be labeled Republican or Democrat, liberal or conservative; they reflect something rarer—common sense. These goals are simple, save money and save our environment, and to save human lives.

There is, according to an anonymous member of this staff an old Russian proverb that says that although hair and soup are both good things—are you sure this is not a fortune cookie?

[Laughter.]

Mr. STUDDS. They do not combine very well. The same can be said for development and coastal barriers.

The staff will be consulted later about that.

[Laughter.]

Mr. STUDDS. Coastal barriers create and maintain the wetlands and estuaries that nourish the vast majority of our commercial and recreational fisheries. They provide habitat for migratory waterfowl and for more than 20 endangered or threatened species. They provide boundless opportunities for fishing, hiking, swimming and other forms of recreation. They provide photographers and tourists and normally desk-bound Congressmen with some of the most majestic and breath-taking scenery on Earth. For these reasons and because they are so fragile and so susceptible to erosion and flood damage, coastal barriers are dangerous places to live, expensive places to insure and the wrong places to build.

For decades, the Federal Government worked against itself, spending millions to acquire and protect some undeveloped coastal barriers, and billions to subsidize development on other barriers, through flood insurance, bridge and highway construction, economic development loans and sewage treatment grants.

The Coastal Barriers Resources Act was intended to stop all that, to establish the principle that those who wish to develop undeveloped coastal barriers shall do so at their own risk and expense and not at the risk and expense of the Federal taxpayer.

There are many who would agree with this general principle, but who would rather not see it applied in their particular area. There are some who have legitimate questions about whether certain areas that are included or which may be included in the System are, in fact, undeveloped coastal barriers. And there are other legitimate and unresolved questions about the proposed inclusion of barriers in the Florida Keys, Puerto Rico and the Virgin Islands, and about the possible inclusion of barriers along the Great Lakes and Pacific Coast, including Alaska and Hawaii.

We will not resolve all of those questions today. But we can resolve to start. And to go forward as rapidly as possible to improve the Coastal Barriers Resources System, to expand it, and to make more progress toward those simple goals of saved resources, saved money and saved lives.

Without objection, the statement of the gentleman from Alaska will appear in the record.

[The statement of Hon. Don Young follows:]

STATEMENT OF HON. DON YOUNG, A U.S. REPRESENTATIVE FROM ALASKA

Mr. Chairman, I join with you in welcoming today our witness from the Department of the Interior. I am sure we will all be interested in hearing what she has to say about the coastal barrier system.

As you recall, the Coastal Barrier Resource Act was strongly supported by former Secretary Jim Watt. It represents an opportunity to protect some of the fragile coastal barriers on the East and Gulf Coasts of the United States. At the same time, it provides a means of reducing Federal spending by ensuring that Federal money is not made available for questionable developments.

As we proceed through our analysis of the Department's report this year, there are some things we should keep in mind. First, in spite of everyone's best efforts, there are some areas that have been recommended for inclusion in the system that really don't belong. I know that the Subcommittee has received letters and calls from a number of Members about problems in their districts. I hope we will look carefully at these requests to make sure that people are treated fairly.

Second, there are continued suggestions that the coastal barrier system should be extended to the West Coast. While I will let my colleagues from Washington, Oregon, and California speak for themselves. I want to go on record about inclusion of Alaska in the system. The State of Alaska has a coastline that is entirely different from that of the East and Gulf Coasts. As you and other Members who have visited my state know, our shoreline is characterized by rocks and deep fjords. The only sandy areas are river deltas, which are expanding, not contracting. A coastal barrier system of the type existing on the East Coast is not found there.

In addition, much of the coastal area is already under Federal authority as part of the Wildlife Refuge System. The Alaska Maritime National Wildlife Refuge consists of all of the rocks and spires that are found on the coast. The Yukon-Kuskokwim Delta is a wildlife refuge. So are other deltas on the North Slope. The Copper River Delta is part of the National Forest System. In other words, we are already protected. I hope that the Committee will keep this in mind as we proceed.

Again Mr. Chairman, I look forward to working with you, other Members, and the Department as we review the recommendations we will receive.

Mr. STUDDS. I understand he and the rest of the Minority is engaged in the process known as the selection of leadership at this point. Tiny Tim would say, "God bless us, every one."

Are there additional opening statements?

The gentleman from New Jersey.

OPENING STATEMENT OF HON. WILLIAM J. HUGHES, A U.S. REPRESENTATIVE FROM NEW JERSEY

Mr. HUGHES. Thank you, Mr. Chairman. First, I want to congratulate you and Chairman Hertel for holding today's hearing on the Department of the Interior's Report to Congress on the Coastal Barriers Resources System.

I was very pleased to participate in—I believe it was the 96th Congress—that worked on the Barrier Islands Bill. It is an important initiative, and I look forward to hearing the testimony.

The entire coast of my district in New Jersey is comprised of a complex chain of barrier islands that begin north of my district and run south to Cape May. As you know, these barrier islands are part of a larger System that extends along the Atlantic Coast and the Gulf of Mexico.

Most of the barrier islands in southern New Jersey are already developed barrier islands, supporting a number of residential communities and resort areas, such as Atlantic City, my home city of Ocean City, Sea Isle, Strathmere, Avalon, Stone Harbor, the Wildwoods and Cape May, just to mention a few. However, the Interior Department has identified a number of units in my district for inclusion into the Coastal Barriers Resources System. In addition to recommending aquatic habitat and undeveloped areas of the System, the Interior Department has also recommended the inclusion of Federal coastal barrier properties that have been determined to be surplus, and a change in the definition of coastal barriers.

Mr. Chairman, many of the areas proposed for inclusion are already protected in my judgment. Some of the areas that are recommended just do not make sense to me. For instance, the inclusion

of the Great Egg Harbor Inlet, which is a major navigational inlet with severe shoaling and currently, it is a meandering type of inlet that needs to be dredged with the beach material placed on the beaches to protect the barrier islands.

So I look forward to hearing the testimony; but I want to tell you from the outset that I have some major problems with some of the recommendations. They just don't make sense to me.

Thank you, Mr. Chairman.

Mr. STUDDS. The Chairman neglected to include the statement of the Chairman of the Oceanography Subcommittee, Mr. Hertel. Without objection, the prepared statement will be printed in the record with unanimous consent.

[The statement of Hon. Dennis M. Hertel follows:]

STATEMENT OF HON. DENNIS M. HERTEL, A U.S. REPRESENTATIVE FROM MICHIGAN, AND CHAIRMAN, SUBCOMMITTEE ON OCEANOGRAPHY

Good Afternoon. Today's oversight on the report to Congress on the Coastal Barrier System is an excellent opportunity to review the status of our initiatives to strengthen our protection of valuable, non-living resources like barrier islands. It is also an opportunity to demonstrate how Congress acts in concert when important matters of natural resources, both living and non-living, must be addressed comprehensively. Jurisdictionally, the difference between the Fisheries and Wildlife Conservation subcommittee and the Oceanography and Great Lakes subcommittee have centered on the distinction between living resources assigned to Fisheries and non-living resources assigned to Oceanography and Great Lakes. Clearly coastal barriers are non-living resources created by the ocean that protect shoreline resources like estuaries, lagoons, wetlands, and so on. All of these non-living resources have vital erosion and flood control aspects.

Additionally, coastal barriers create numerous nursery grounds for a myriad of living resources.

I look forward to working with Mr. Studds for the protection of those living resources and I seek his counsel on strategies to best protect our marine resources.

Of our witnesses today, I am particularly interested in further details of savings and cost avoidance to the Federal Government of the flood insurance prohibition.

I am also interested in the status of discussion with Great Lakes states and this program.

Thank you.

Mr. STUDDS. Are there opening statements from other members? The gentleman from South Carolina.

OPENING STATEMENT OF HON. ROBIN TALLON, A U.S. REPRESENTATIVE FROM SOUTH CAROLINA

Mr. TALLON. Thank you, Mr. Chairman. Mr. Chairman, I appreciate your holding this hearing this morning on the Coastal Barriers Resources Act. Coming from a state with over 3,000 miles of beaches, marshes and waterways, I believe this is one of the most critical issues the Merchant Marine Committee will face.

While each of last year's 12 million visitors to South Carolina's coast was, of course, won over by its stunning beauty, I am afraid that few appreciated its fragileness. Carelessness, uncontrolled development of hurricanes can send this natural System into shock, destroying entire beaches. Pub.L. 97-348 laid a foundation for preserving South Carolina's and other coastal state's greatest natural and economic resources.

The work we are beginning here today should shore up that foundation for the long term. Our coast has given me a lifetime of pride and enjoyment. I look forward to working with the members

of this Subcommittee, Mr. Chairman, to ensure that this legacy is protected for future generations.

Thank you.

Mr. STUDDS. I thank the gentleman. The Chairman is endeavoring to unscramble seniority of combined Subcommittees, which is virtually impossible; so you will have to trust the Chairman.

The gentleman from Texas is next.

OPENING STATEMENT OF HON. SOLOMON P. ORTIZ, A U.S. REPRESENTATIVE FROM TEXAS

Mr. ORTIZ. Thank you, Mr. Chairman. I certainly would like to thank you for convening this hearing today on the Coastal Barriers Resources System and the Department of the Interior's recommended addition to this System.

The Coastal Barriers Resources System is intended to preserve our Nation's coastal barriers. Quite often, lands designated by the System are already protected by a regulations imposed at the state level. These regulations are consistent with preservation of certain wetlands or wildlife refuges while allowing for the economic development which many coastal communities absolutely rely upon for tax revenues and tourism.

There has also been an economic argument in support of placing lands in the Coastal Barriers Resources System. During today's hearing and in the future, I plan to analyze all statistics that are offered as proof of this economic theory, and determine whether the evidence supports this rationale.

These are issues that will be reviewed during today's hearings and throughout the Congressional Review of Interior's Recommendation. I look forward to hearing the testimony this morning and working with my Committee colleagues during this session of Congress.

And I would like to revise and expand my remarks.

Mr. STUDDS. Without objection, your prepared statement will be printed in the record with unanimous consent.

[The statement of Hon. Solomon P. Ortiz follows:]

STATEMENT OF HON. SOLOMON P. ORTIZ, A U.S. REPRESENTATIVE FROM TEXAS

Chairman Studds and fellow Members of the Subcommittees on Fisheries and Wildlife Conservation and the Environment, and Members of the Subcommittee on Oceanography.

Mr. Chairman, thank you for convening this hearing today on the Coastal Barriers Resource System, and the Department of the Interior's recommended additions to this System.

The Coastal Barriers Resources System is intended to preserve our Nation's coastal barriers.

During today's hearing, and in the future, I plan to analyze all statistics offered as proof of this economic theory, and determine whether the evidence supports this rationale.

These are issues that will be reviewed during today's hearings, and throughout the Congressional review of Interior's recommendations.

I look forward to hearing Ms. Lamson's testimony and working with my Committee colleagues during the 101st Congress on this issue.

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These regulations are consistent with preservation of certain wetlands or wildlife refugees, while allowing for the economic development which many coastal communities absolutely rely upon for tax revenues and tourism.

There has also been an economic argument in support of placing lands in the Coastal Barriers Resource System.

Mr. STUDDS. The gentleman from New Jersey.

OPENING STATEMENT OF HON. FRANK PALLONE, JR., A U.S. REPRESENTATIVE FROM NEW JERSEY

Mr. PALLONE. Thank you, Mr. Chairman. I just wanted to say that I consider this hearing today very significant, particularly in my district, because I represent one of the most developed coastal areas in New Jersey. There is a tremendous amount of concern out there at the reach of this Act, and whether it will be extended in certain parts of my area. We do have, in fact, one addition that is part of the report.

At the same time, there is concern that the consequences in terms of tax dollars and what it means to local development, will become an issue. So to me, the whole question of what we do with regard to this program is very significant. My tendency is to want to see coastal barriers protected as much as possible, which was the purpose of the Act.

Thank you.

Mr. STUDDS. The gentlelady from Washington, do you have a statement?

Ms. UNSOELD. No.

Mr. STUDDS. The Chairman would just remind members that this program is one of those rarest of phenomenon, a genuinely good idea of Republican origins. Principally, I think, it was the gentleman from Delaware, Mr. Evans, and the Senator from Rhode Island, Mr. Chafee, and the Secretary of the Interior, Mr. Watt.

Now, Ms. Susan Recce-Lamson, Deputy Assistant Secretary for Fish and Wildlife and Parks, who is going to explain—summarize, I trust—the report. We would ask you—I know it is not easy and I know even the summary is lengthy of a very complex document—do the best you can to keep that short, if you would, so we will have time to have a dialogue.

Welcome.

STATEMENT OF MS. SUSAN RECCE-LAMSON, DEPUTY ASSISTANT SECRETARY FOR FISH AND WILDLIFE AND PARKS, DEPARTMENT OF INTERIOR, WASHINGTON, D.C., ACCOMPANIED BY MS. BARBARA WYMAN, SPECIAL ASSISTANT TO THE ASSISTANT SECRETARY FOR FISH AND WILDLIFE AND PARKS; MR. FRANK McGILVREY, COASTAL BARRIERS COORDINATOR, U.S. FISH AND WILDLIFE SERVICE; DR. JURGEN REINHARDT, U.S. GEOLOGICAL SURVEY

Ms. RECCE-LAMSON. I will move very rapidly through my opening remarks, Mr. Chairman. I appreciate the opportunity to appear before you today to describe the Department's final report and recommendations to Congress on the Coastal Barriers Resources System.

The report was mandated by Section 10 of the Coastal Barriers Resources Act. With me today are members of the Department's Coastal Barrier Study Group, who will assist in answering any questions you may have. With your permission, I will submit my

formal testimony for the record, then briefly review the history of the statute and describe the final recommendations contained in the report.

The enactment of the Coastal Barriers Resources Act represented the culmination of several years of study by Congress and the Department of the Interior on how Federal programs affect the development of coastal barriers. The study was based on the recognition that extensive development had occurred on coastal barriers after World War II—due primarily to increased affluence and Federal subsidies—and the recognition that coastal barrier ecosystems perform important functions in protecting fish and wildlife habitat and population centers on the mainland from the direct assault of the sea.

These studies assessed options for modifying about 40 Federal programs affecting coastal barriers, including the National Flood Insurance Program. Results were released in a draft environmental impact statement in January 1980. The second major action was the enactment of the Omnibus Budget Reconciliation Act, commonly referred to as OBRA. Section 341 of OBRA amended the National Flood Insurance Act to prohibit issuance of new Federal flood insurance after October 1, 1983, for any new construction of structures located on undeveloped coastal barriers.

OBRA also gave the Secretary of the Interior the following two responsibilities: (1) to designate coastal barriers based on a definition contained in OBRA; and (2) to report to Congress with recommendations concerning the term "coastal barrier." In accordance with OBRA, the Secretary submitted a report to Congress in August 1982, containing definitions and delineation criteria, as well as maps of 188 units proposed for designation as undeveloped coastal barriers.

The delineation of these units focused on the fastland or developable portion of the coastal barrier, since the focus of OBRA was to prohibit flood insurance for structures located on barrier units. Further action on OBRA, however, was superceded by the third event—Congressional enactment of the Coastal Barrier Resources Act in 1982. This statute—which is commonly referred to as CBRA—established 186 units in the Coastal Barrier Resources System and prohibited new Federal expenditures and financial assistance in System units with certain exceptions. It also broadened OBRA's prohibition on Federal flood insurance to cover all Federal development assistance, and expanded the definition of a coastal barrier to include its associated aquatic habitat.

In enacting CBRA, Congress specifically stipulated three purposes: To minimize the loss of human life; the wasteful expenditure of Federal revenue, and, the damage to fish, wildlife and other natural resources associated with the coastal barriers along the Gulf and Atlantic coastlines by restricting new Federal expenditures and financial assistance that encourage development.

Section 10 of CBRA specifically required the Department to prepare and submit a report to Congress—with recommendations for the conservation of fish and wildlife and other natural resources of the System. It also required us to recommend additions to or deletions from the System, or modification of the boundaries; a summary of the comments received from Governors of State coastal zone

management agencies, Government officials and the public; as well as analyzing the effects, if any, of general revenue-sharing grants on undeveloped coastal barriers.

I would like to mention four major activities carried out during that time. In the spring of 1985, the Department issued a draft map inventory of undeveloped coastal barriers and a draft report on conservation alternatives for the System. These documents were made available for public review as part of the information gathering process and did not include recommendations; these documents, however, provided a range of alternatives that could be used as a basis for recommendations to Congress.

We received over 2,300 comments on the document and attended 26 public meetings and workshops. Comments on the inventory and conservation alternatives assisted the Department in issuing proposed recommendations in March 1987. During the comment period, we received over 6,000 comments; those substantive comments are contained in our report.

During 1988, the Department prepared and received comment on a supplemental legislative environmental impact statement. The LEIS represented a supplement to our 1983 final environmental impact statement. The Department announced the availability of the final LEIS and the final report and recommendations in December 1988. The 28 separate documents were formally transmitted to Congress in January.

The Department's recommendations are contained in 22 volumes of the report. I will first describe our geographic-specific recommendations which constitute additions to or deletions from the System. The Department recommends that the areas delineated on the maps by the study group be added to or deleted from the System. Most of the nearly 791,000 acres identified on the maps are wetland habitat.

This total acreage represents a significant expansion over the existing System that currently contains nearly 453,000 acres of mostly fastland areas. The areas were delineated based on specific criteria and recommendations for Congressional consideration.

The first recommendation concerns the definition of coastal barriers. The statutory definition of an undeveloped "coastal barrier" describes it as a depositional feature consisting of unconsolidated sedimentary materials. Although coastal barriers generally consist entirely of unconsolidated sediments composed of sand or gravel, sediments can sometimes be consolidated or include silt or clay, cobbles or large rocks. Areas that contain carbonate cemented deposits, such as the Florida Keys, along with areas that consist primarily of silt and clay, such as fringing mangroves in Puerto Rico and cheniers in Louisiana, and areas that contain discontinuous outcrops of bedrock or coarse glacial deposits, as those found on the coast of Maine, have been identified by the Department as functioning coastal barriers even though they do not conform to the usual definition.

Therefore, we have recommended that the definition of coastal barriers in the Act be amended by deleting the reference to unconsolidated sedimentary materials. The Department recommends that all undeveloped coastal barriers meeting our study criteria be

added to the System; likewise, that those units within the System that do not meet the criteria be deleted.

The second recommendation concerns geographic scope. When CBRA was passed in 1982, Congress only included coastal barriers along the Atlantic Ocean and Gulf of Mexico. Although neither the statute nor the legislative history indicates that Congress intended to expand the System to other coastlines, the study group did gather preliminary information about undeveloped coastal barriers on all U.S. coastlines.

The Department did not make specific recommendations about the undeveloped coastal barriers along the Great Lakes, Pacific Coast, Alaska, Hawaii, and American Samoa. We indicated that we would not complete those studies unless Congress enacted legislation directing us to do so. The 1988 amendments to the Disaster Relief Act require the Secretary of the Interior to prepare maps identifying undeveloped coastal barriers along the Great Lakes that are appropriate for inclusion in the System.

The Department, therefore, has updated its map inventory from the previous exercise and made those maps available for public comment. That comment period has closed, and after reviewing the comments, the Department will provide final maps to the Congress.

With respect to associated aquatic habitat, language contained in CBRA defines an undeveloped coastal barrier to include "all associated aquatic habitat, including adjacent wetland, marshes, estuaries, inlets and near-shore waters." Existing units in the System include only minimum aquatic habitat, as they were delineated in response to the directive in OBRA related to Federal flood insurance. Since the focus of OBRA concerned Federal flood insurance for structures built on barriers, the Department's 1982 delineations focused on the fastland portion of the barrier where residential development might occur.

The Department is now recommending that all aquatic habitats associated with the existing units in the System, as well as those associated with new units, be added. Associated aquatic habitat is an essential component of the barrier's ecosystem. In addition, these areas are critically important to fish and wildlife species, including most of the Nation's commercial fish and shellfish habitat. I would like to note again that about 90 percent of the acreage recommended for inclusion is wetlands.

Regarding navigation channels, the 1987 draft recommendation to add the associated aquatic habitat in the System resulted in the inclusion of several Federal navigation channels. The implications of this draft recommendation concerned many commentors due to potential impacts from the loss of Federal funding for channel improvements and port development activities.

Although the planning for many of the projects had been ongoing for many years, many projects did not receive an authorization for construction until 1986, with the enactment of the Water Resources Development Act. In its final recommendations, the Department adjusted the recommended boundaries of several units to exclude major shipping channels. In addition, we specifically recommended excluding all existing Federal navigation channels, including the Intra-coastal Waterway, by reference, to allow related navigational activity.

With respect to otherwise protected coastal barriers, Section 3(1)(B) of CBRA specifically exempted barriers which are included within the boundaries of an area established under Federal, state or local law, or held by qualified organizations primarily for wildlife refuge, sanctuary, recreational or natural resource conservation purposes. Approximately one-third of the Atlantic and Gulf coastlines is included in this category.

A review of these areas indicates that most of the subsidized development occuring in otherwise protected areas is necessary to provide public access and accommodate visitors. Most of the barriers are undeveloped, containing either scattered public and private development of a temporary or minimal nature, or a single-developed area of bath houses or other facilities to support beach-oriented recreation.

The Department, therefore, has not recommended the inclusion of otherwise protected areas and has recommended that all otherwise protected areas in the System be deleted. In order to ward against inappropriate development in these areas, the Department advocates automatic inclusion in the System of any otherwise protected areas made available for development that is inconsistent with the purposes of the Act.

In addition, the Department has recommended that all in-holdings or otherwise protected undeveloped coastal barriers be included in the System. This would ensure that private property owners within the boundaries of these areas not be granted Federal flood insurance.

With respect to military and Coast Guard lands, the Department has recommended that no new military or Coast Guard lands be added to the System, and that the one Coast Guard and three military units which are in the System be deleted. This recommendation is based on the fact that most military activities are essential to national security, and otherwise would need to comply with NEPA and other environmental laws.

Our second category of recommendations concerns conservation recommendations. In developing these recommendations, we were guided by the philosophy contained in CBRA. The guidance contained in this statute has been to protect natural resources associated with coastal barriers by withdrawing Federal subsidies which encourage development—not through additional regulation or acquisition.

Therefore, regarding acquisition, we have recommended that the Federal Government continue to employ those tools we already have, such as user fees, which would include entrance fees, to finance land acquisition. Under the 1986 Emergency Wetlands Resources Act, 70 percent of the revenue from entrance fees and from the sale of duck stamps is dedicated to wetland acquisition. We have also recommended that State and local entities be encouraged on their own to pursue acquisition of coastal barriers.

Relative to surplus or excess Federal property, CBRA does not include provisions with respect to surplus property, despite the significant acreage of Federal holdings. We have therefore recommended that the CBRA be amended to require that undeveloped portions of surplus or excess Federal coastal barriers property be included in the System prior to its disposal.

With respect to regulatory consistency, CBRA does restrict Federal expenditures which encourage development; however, it does not preclude Federal agencies from issuing permits or licenses for activities within or adjacent to System units.

The permit programs administered at the Federal level concern many activities on coastal barriers, including the construction of causeways, bridges, docks, and infrastructure components such as utility crossings and wastewater treatment plants. Permit applications for these activities undergo appropriate environmental assessments. The Department, therefore, does not recommend that regulatory consistency be incorporated into the implementation of the Coastal Barriers Resources System.

With respect to tax policy alternatives, it is our understanding that the Act has not had a dampening effect on charitable contributions within the System. We have, therefore, concluded that there is no need to offer tax amendments at this point in time. Given the major revisions to the tax code in 1986, it is our belief that it would be best to have a period of stability and certainty in the tax law.

The Department has also recommended amendments to two areas of the statute which merit legislative clarification. The first is an amendment to Section 6 of CBRA which contains exceptions to limitations of Federal funding. We recommend that an amendment be made to allow utilities to (1) use Federal monies to construct essential lines through System units where no practicable alternative route exists to service one or more developed areas on coastal barriers outside the System, and (2) to provide service to developments within the System from existing lines or essential lines which cross through the System, provided that service is supplied at no additional cost to the Federal Government. If any upgrades are necessary to accommodate such service, the Department recommends that such costs be borne by non-Federal parties.

We also believe that, once the original Federal outlay is made on essential lines, no additional costs accrue to the Federal Government. The need for this amendment stems from concerns expressed by many commentors that they would not be able to adequately service customers on developed coastal barriers because they could not afford to cross the System without Federal assistance.

It is our belief that the intent of CBRA has not been to penalize those living on developed coastal barriers, nor do we want to discourage the construction or use of sewage treatment plants that will lessen the detrimental environmental impacts of malfunctioning package treatment plants and septic systems. The Department believes that the potential environmental benefits resulting from this recommendation will outweigh any potential contributions to the development of the System.

Our second proposal is to recommend that Section 7 of CBRA be amended to require each Federal agency to self-certify that they have complied with the provisions of the statute during each fiscal year. This provision would be in lieu of the current statutory requirements that mandate that OMB provide the annual certification for each Federal agency.

Before closing, Mr. Chairman, I would like to mention the final recommendation that we have in our report. Most of the actions

taken at the Federal level to conserve coastal barriers have focused on undeveloped coastal barriers in the interest of precluding development. Our final recommendations perpetuate this trend since our review of coastal barriers has been strictly concerned with undeveloped barriers.

At the same time, we are cognizant of the equity questions that have arisen due to this categorical treatment. There are many coastal areas outside the System that are either developed or not qualified for inclusion in the System under our criteria. These areas may continue to receive Federal funding for both new development and re-development after storms. Continued Federal assistance in these areas raises equity questions among those who were denied such assistance when their property was included.

Therefore, we are proposing that Congress enact legislation directing that a related study be undertaken by the relevant Federal agencies, in consultation with the States. The purpose of this study would be to develop additional options to address Federal subsidies on all coastal barriers, both developed and undeveloped, for consideration by Congress.

Mr. Chairman, this completes my review of the Department's final recommendations to Congress. I would like to emphasize that the proposal consists of recommendations only, and that no changes could occur in the Act or the existing system, unless Congress takes action.

I will be pleased to answer any questions you have.

[The statement of Susan Recce-Lamson can be found at the end of the hearing.]

Mr. STUDDS. Thank you very much. Just for the record, would you introduce the people next to you who are accompanying you at the table?

Ms. RECCE-LAMSON. To my immediate left is Barbara Wyman, who is Special Assistant to the Assistant Secretary for Fish and Wildlife and Parks. Next to her is Frank McGilvrey, who is the Coastal Barriers Coordinator for the Fish and Wildlife Service, and next to him is Dr. Juergen Reinhardt, who is a geologist with the U.S. Geological Survey.

Mr. STUDDS. Thank you. Ms. Wyman, a particular welcome back to you. I recall you as a member of the Minority Staff helping us with the initial statute. Good to have you back again.

I am sure that I speak for both of our Subcommittees in commending you on the amount and the quality of work that you have done. I think we are off to a very good start. In that connection, do you know whether the Administration supports the enactment of legislation based on your report?

Ms. RECCE-LAMSON. No, sir, I do not. We obviously had clearance to submit the report to Congress but we do not have an official Administration position.

Mr. STUDDS. Do you intend to prepare draft legislation, or have you, to implement the proposals?

Ms. RECCE-LAMSON. No, sir. As I understand it, I believe that the Administration would be in a reactive mode. In the event that Congress introduces legislation, we would then respond to the bill.

Mr. STUDDS. Wait a minute. That sounds like something a President would say.

Ms. RECCE-LAMSON. The best that we can offer at this time would be technical assistance to the Committee.

Mr. STUDDS. Is the English translation of that that you think it is unlikely the Administration intends to adopt a position on this most important and conservative of subjects?

Ms. RECCE-LAMSON. I think a position would be adopted in response to any action that the Congress might initiate; but I am not aware at this moment that the Administration independently would take a position.

Mr. STUDDS. I wonder if you could get that policy adopted in other areas. Never mind. My second questions has to do with the relationship between your final report and the earlier draft reports that you submitted in 1985 and 1987. Am I correct in saying that your mandate under the law was to identify all coastal areas meeting the three basic tests for determining whether they should be included in the System; that is, all areas that meet the geological definition of a coastal barrier, that are undeveloped and that are not otherwise protected?

Ms. RECCE-LAMSON. Yes.

Mr. STUDDS. And if that is the case, what are we to conclude from the fact that your final report recommends the inclusion of far less acreage than your two draft reports?

Ms. RECCE-LAMSON. I would like to refer you question to the Coastal Barriers Coordinator.

Mr. MCGILVREY. It is important to understand that the 1985 report was an inventory, only, of all undeveloped coastal barriers on all coastlines of the United States, both privately and publicly owned.

In other words, we felt that our mandate was to inventory all undeveloped coastal barriers. No recommendations were issued in 1985. The 1987 report containing draft recommendations was the result of policy decisions made by the Department. The major difference between the 1987 draft recommendations and the final recommendations was the removal of the General Land Office lands in the State of Texas. That action is the major reason for the decline in acreage between the 1987 draft report and the final recommendations.

The State of Texas has adopted new regulations that, in effect, make their General Land Office lands otherwise protected. Their regulations state very specifically that anything done within the General Land Office lands must comply with the criteria included in CBRA.

Mr. STUDDS. I thank you; and that is obviously a problem of some consequence we are going to have to address.

You say in your testimony that we should consider your report to be technical in nature. Are you saying that your recommendations about areas like Vero Beach, Pawley's Inlet in South Carolina, Cat Island in Mississippi, Mobile Point in Alabama, Boca Chica in Texas, were based entirely on technical considerations; or were other considerations also taken into account?

Ms. RECCE-LAMSON. Allow me to clarify this. When we initiated this report, we issued a draft study plan for public comment. Based on comments received, we developed our study criteria. Once inter-

nal decisions were made on the criteria, those criteria were applied consistently across the board.

The term "technical" means that, once criteria were developed, they were consistently applied across the board. In response to comments to either add or delete a particular unit, we considered those comments in terms of the criteria, not only to that particular unit, but to all of the units. Our study, therefore, became a technical exercise.

Ms. WYMAN. Mr. Chairman, if I may further clarify. A couple of units to which you refer are areas which are totally undeveloped and do still qualify, but which we did not recommend for inclusion. The reason they were not recommended for consideration is that they had been recommended in 1982 and were specifically rejected by Congress. The Department chose, as a policy matter, not to re-recommend areas that have already been considered.

We did, however, point out in the report which of those areas were still undeveloped and indicated that we would be happy to provide additional information if Congress should choose to reconsider any of those areas once again.

Mr. STUDDS. I guess that is the kind of technical consideration for which you cannot be held accountable. I understand.

Given the fact that CBRA was enacted to prohibit the continuation of Federal subsidies for development on undeveloped coastal barriers, would you agree with the general statement that each time we fail to include an area which meets the criteria of the Act, we depart further from a standard of fairness to all Federal taxpayers?

Ms. RECCE-LAMSON. I would generally agree with that.

Mr. STUDDS. Would you agree that each such failure contributes, at least in some small measure, to increased Federal expenditures; thereby undermining not only the goals of the Act, but our overall goal of reducing the deficit?

Ms. RECCE-LAMSON. To some measure; yes, sir.

Mr. STUDDS. Would you agree that it is somewhere between unreasonable and unfair, to use your adjective, to taxpayers on the East Coast and the Gulf Coast not to include eligible coastal barriers on the Great Lakes and the Pacific?

Ms. RECCE-LAMSON. Yes, I think that this issue is addressed by the equity issue that we raised in our report.

Mr. STUDDS. Was that a yes?

Ms. RECCE-LAMSON. Yes, sir.

Mr. STUDDS. Thank you. Staff tells me that my five minutes has expired. I wonder if that is the same staff that came up with the—the gentleman from Michigan.

Mr. Hertel, the Chairman of the Subcommittee on Oceanography?

Mr. HERTEL. Mr. Chairman, I have an opening statement that I would just like to include for the record.

Mr. STUDDS. It is already included.

Mr. HERTEL. Thank you. In the discussion of existing ship channels; are these channels which actually exist, or are they channels authorized by Congress but which may, in fact, not yet be constructed? How do you define that?

Ms. RECCE-LAMSON. I will ask someone else to clarify, but, as I understand it, the recommendation would cover both categories.

Ms. WYMAN. The recommendation includes all Federal navigation channels—anything that is currently authorized and which exists now or which will be studied and exist in the future.

Mr. HERTEL. Is the recommendation to exclude these areas consistent with the goals that you have, which are to minimize wasteful expenditures, prevent damage to fish and wildlife resources, and to restrict Federal spending?

Ms. RECCE-LAMSON. Our belief, based on our review and public comment, was that shipping and navigational channels did not contribute to development of coastal barriers. Based on that consideration, we recommended that they be excluded from the System, or not included in the System, as the case may be.

Mr. HERTEL. You said in the report that this did not involve adjacent areas; is that correct—adjacent areas to the shipping channels?

Ms. RECCE-LAMSON. Would you please repeat the last part of the question?

Mr. HERTEL. I understand that the report said it is not intended to promote development in adjacent areas, even though you are going to exempt the shipping channels?

Ms. WYMAN. Yes, sir. When we made the decision on the navigation channels, we did so based on the extensive public comment from many representing the ports and those that use the intercoastal waterways who indicated there was a need to perhaps deepen and widen these channels. The Act, right now, only provides for the maintenance of existing channels. Deepening or widening of any existing channels is not allowed in System units.

Based on this recommendation—and the lines are actually drawn across the navigation channels—we would ask for a specific exclusion by reference. The Department does not intend for expanded navigation to promote development on either side of that navigation channel.

Mr. HERTEL. Thank you.

Mr. STUDDS. The gentleman from Florida, Mr. Goss?

Mr. GOSS. Thank you, Mr. Chairman. I apologize for coming in late. I think primarily my interest this morning is knowing what is going to be the mechanism for those private property owners who feel that they have a case to bring forward.

I do not know if that has been covered yet or not; but in your recommendations, I note that there are a number of things that include additions and adjustments; and the rules for adjustments appears to be other means of protection, and some other exceptions that are noted. Is there any relief route for private property owners who wish to make adjustments in the boundaries?

Ms. RECCE-LAMSON. I think that the relief may come in the form of petitioning Congress. At this point, our recommendations are advisory only. The 186 units already in the System remain in the System unless Congress chooses to amend the Act to delete them, or to add new areas that we recommended for inclusion.

Mr. GOSS. So nothing in your recommendation affects that process?

Ms. RECCE-LAMSON. No, sir.

Mr. Goss. Thank you very much. Thank you, Mr. Chairman.

Mr. STUDDS. The Chairman is going to try to be fair, taking into account both seniority and Full Committee, and those members who have been here from the very beginning; and will do the best that he can to be fair in that respect.

The gentleman from New Jersey, Mr. Hughes?

Mr. HUGHES. Thank you very much, Mr. Chairman. As I understand it, what you have done basically is to remove from your advisory recommendations any Federal navigation channels; am I correct?

Ms. WYMAN. Yes, sir. We are recommending that Congress amend the Act to specifically provide an exemption for existing Federal navigation channels. The way the Act is written, Federal monies can only be spent for maintenance activities on existing Federal navigation channels within the System. Federal monies cannot be spent to construct new channels or to deepen or widen any existing channels.

If a unit is in the System and you have a Federal navigation channel there, Federal funds may only be spent for maintenance dredging. The Department has recommended that existing Federal navigation channels be excluded by reference; so that Federal assistance would then be allowed for widening and deepening these existing channels.

Mr. HUGHES. And that is not the case presently?

Ms. WYMAN. That is not the case presently for areas that are in the System.

Mr. HUGHES. In the System?

Ms. WYMAN. Federal funds may not be spent to widen and deepen channels within the System.

Mr. HUGHES. Let me be specific, if I could then. With regard to the Great Egg Harbor Inlet, do you recommend that it be included as one of the units in the System? And as I understand your recommendation, you would not, unless the Congress acts affirmatively, permit any widening or any deepening of the channel in the Great Egg?

Ms. WYMAN. With regard to the proposed additions, we have identified undeveloped coastal barriers and their associated aquatic habitat. If Congress chose not to adopt our recommendations to add associated aquatic habitat to the System, then, in fact, there would be no need to adopt the recommendation for navigation projects.

Mr. HUGHES. I understand. Let me see if I can get to the rationale, because I am really confused. I was a very strong supporter of the Barrier Islands Bill when it was before the Congress, and still am; but the Great Egg Harbor River flows into the Great Harbor Inlet. It is a major navigation inlet between Longport and Ocean City. It is developed on both sides; already developed. You could not pitch a tent between the properties.

Now, if I understand your recommendations, the inlet could not be widened or deepened. It is badly shoaled now. It has so badly eroded the shoreline that there is very little beach on either side, Longport side or Ocean City side. And it is now proposed, because of an emergency that is developing in the inlet, that we attempt to dredge to open up the inlet and nourish the beaches.

You would not permit that?

Dr. REINHARDT. Allow me to clarify the situation at the inlet itself from a geologic standpoint. There is more than one-quarter mile of shoreline length that is presently undeveloped on either side of the inlet. This is the amount of fastland on either side of the inlet.

The information that we had in 1982 indicated to us, that the area was protected, that it was in municipal ownership and that it was not developable.

Mr. HUGHES. There is nothing to develop along the shoreline. It is all developed. What beach there was does not exist anymore; and what beach there was at one time, which is now underwater, is in public ownership. So what is the purpose of including the Great Egg Harbor River? I mean, I am confused as to what the purpose is.

Mr. MCGILVREY. Mr. Hughes, we worked closely with the New Jersey DNR, and we explained the requirements of the law to them.

Mr. HUGHES. Who did you work with?

Mr. MCGILVREY. The State of New Jersey's Department of Natural Resources. Based on our conversations with them, they provided us with a very detailed set of maps that they felt qualified for inclusion in the Coastal Barriers Resources System. We accepted those maps in total.

Mr. HUGHES. Well, obviously somebody at DEP has not taken a look at the Great Egg Harbor Inlet lately; because I have just described the inlet to you; and there is no area that is undeveloped. It is totally developed. I happen to know that because I live on the inlet.

Mr. STUDDS. Did you put his house on that map?

[Laughter.]

Ms. WYMAN. We may have, but I do not know. May I clarify the question?

Mr. HUGHES. It is just contrary to what I understood the policy of the Coastal Barrier Islands legislation to be, that is to protect undeveloped barrier islands.

Ms. WYMAN. If the proposed unit is, in fact, developed and does not qualify under our criteria, we would recommend that the unit not be established. We relied heavily on State comments in delineating the proposed units because we did not have the people to walk from Maine through Texas to look at these areas individually.

Mr. HUGHES. It was our philosophy at one time that if an area was protected by the state or the municipality, that is, public ownership, it not be included. If it is already protected, there is nothing more to protect. Is that still the philosophy of the Department of Interior?

Ms. WYMAN. Yes, sir. We are recommending that if an undeveloped coastal barrier is otherwise protected, that it not be included. Such a unit would only be included if it became available for development that is inconsistent with the Act. We are seeking authority to provide for automatic inclusion at that time.

As you know, we have identified the otherwise protected areas on maps which would be made available to Federal agencies. We propose that Federal assistance be allowed for the types of activities that are carried out in many of these areas, such as a mainte-

nance shed on a refuge, or bath houses on national seashores, whatever the case may be.

It is our recommendation that they be left out of the System and provided Federal assistance, unless, in fact, inconsistent development should occur. For instance, there are private organizations, such as the Nature Conservancy, that own coastal barriers. Sometimes they sell those properties to a developer in order to pick up new properties somewhere else. It is our proposal that, although it is otherwise protected now and out of the System, it should be included automatically if, in fact, someone proposes to develop it in a way that is inconsistent with the purposes of the Act.

Mr. HUGHES. And it was DEP that made the recommendations with regard to Great Egg specifically?

Ms. WYMAN. As I understand it, yes.

Mr. HUGHES. Thank you, Mr. Chairman.

Mr. STUDDS. The gentleman from Florida, Mr. Bennett?

Mr. BENNETT. You recommend the inclusion of so-called otherwise protected areas of the System. Why do you not want to include that?

Ms. RECCE-LAMSON. Why do we want to do that?

Mr. BENNETT. Yes.

Ms. RECCE-LAMSON. We had received, through the public comment process, a number of comments suggesting that if these areas are, in fact, otherwise protected, that there was no need to keep them in the System or include them in the System since they already have other protective measures.

Mr. BENNETT. Do you need a procedure to ensure that will be carried out?

Ms. RECCE-LAMSON. Yes, sir. In addition to the recommendation that Ms. Wyman discussed regarding automatic inclusion of areas made available for development, we are also requesting that we be given the authority to develop guidelines on what types of development would be permissible, such as recreational, educational, or scientific types of development. We would also like to establish a clear threshold that would indicate that the mechanism for automatic inclusion has been triggered, i.e. that incompatible development is planned and, therefore, that a unit would automatically be included in the System.

So we are only doing so in order that the States and other entities will not have to consult with us on each and every bath house they may want to construct.

Mr. BENNETT. I have one other question; that is, of the 186 units originally included in the System, how many of them are undeveloped and what can you tell us about the problems you have had about that?

Ms. RECCE-LAMSON. As I understand it, of the 186 units, approximately 10 have been developed; and we believe that that development was spurred before the Federal flood insurance prohibition kicked in in October of 1983. But it does not appear that since that time, there has been significant development in those units.

Mr. BENNETT. Thank you.

Mr. STUDDS. I thank the gentleman. The gentleman from Washington, Mr. Miller?

Mr. MILLER. No questions.

Mr. STUDDS. The gentleman from New Jersey, Mr. Pallone?

Mr. PALLONE. Thank you, Mr. Chairman. I wanted to ask specifically, along the lines of what the gentleman from Florida just said; what value there is in this type of program as opposed to a broader study to possibly look at developed areas, rather than areas that are completely undeveloped?

In other words, you do have, for example, in your report, an area in Union Beach in my district that is proposed for inclusion. That area is in the throes—not necessarily that particularly spot, but the general Bay Shore area is in the throes of redevelopment. It is so easy to sell condominium units, for example, at prices that would be $300,000 or $400,000 per unit. I wonder to what extent, even without Federal flood insurance and the benefits they are going to lose from the Federal Government, that you might get development anyway in that area. I just wanted you to comment on that.

Ms. RECCE-LAMSON. You have raised a good point. In fact, that point was addressed in our report under the socio-economic impacts of the prohibition on Federal subsidies. I think that withdrawing the Federal carrot does have a dampening effect on development in coastal barriers. However, you almost have to assess the impact on a case-by-case basis depending on population and development pressures. In certain instances, the economic balance would still cause development to be lucrative or profitable in the absence of Federal subsidies.

I do not think we could say that the Coastal Barriers Resources Act would halt development. I think it would hinder it.

Mr. PALLONE. Let me go beyond that, because I am very interested in this proposal. You mentioned a study that would possibly broaden this program to more developed areas. Right now in New Jersey, for example, we have an existing scheme on the state level for permitting projects that are 24 units or more.

We also have a proposal for a coastal commission that would basically restrict development in a land-use sense. When you talk about the study that would look into developed areas, are you talking about a different approach? I mean, the approach here is to withdraw Federal funds or Federal subsidies. At no point does the Federal Government, certainly by anything in this legislation, get into actually controlling growth in a land-use sense.

Is that one of the things that you might be looking into; because it is certainly something that would interest me?

Ms. RECCE-LAMSON. Allow me to reiterate one point in my statement. The reasoning behind this recommendation is in the realm of equity. Based on several years of work on this report and the public comments, we have heard most from those who feel it has been unfair that there was a division between those who owned property which they had already developed, and those who had not developed their property and who discovered that, because they had not developed their property, it would come under the restrictions of the Coastal Barriers Act.

That is why we have recommended an examination of developed areas. This addresses the question of whether you separate looking at Federal subsidies between undeveloped and developed coastal barriers? Further, I think this question is related to the question of

appropriate expenditures of Federal dollars in high-risk areas. At this point, we are looking at Federal expenditures in high-risk areas of undeveloped areas. Yet, there are high-risk areas in developed areas as well.

For example, after a storm in a developed area, would it be prudent for Federal subsidies to be invested to rebuild or reconstruct these areas? These questions are the reason for this review, and they concern the equity issue.

Mr. PALLONE. What I am trying to get at is whether or not you would be in favor of some type of approach that goes beyond just talking about Federal subsidies and actually gets to the core of development in terms of planning or even restricting development of some service.

That is traditionally left to the locals. But I just wanted your view as to whether there could be a Federal role there.

Ms. RECCE-LAMSON. The objective of the Act at this point, is not to stop development. The intent of the Act is to withdraw the Federal carrot that would encourage development. Our recommendation for the study group would not extend beyond that intent. You are correct, in that the review would still be looking at the Federal carrot and proper expenditure of Federal funds versus directly attacking development for development's sake.

Mr. PALLONE. Thank you.

Mr. STUDDS. The gentlelady from Washington?

Mrs. UNSOELD. Thank you, Mr. Chairman. If I understand it correctly, in your 1987 draft report, there was a recommendation that any disposal of dredge materials within the CBRA System be required to be consistent with the purposes of the Act; but that this was dropped from the final report; why was that?

Ms. RECCE-LAMSON. It was felt, with respect to several of our recommendations, that these activities are already regulated by other laws. These activities may require a permit or some specific action of a Federal agency; for example, the Corps of Engineers. The permit review process takes into account comments by the Fish and Wildlife Service and other natural resource agencies.

Our final recommendation was that those activities that come under a separate review process not be overlaid with a new process. Our recommendation was also aimed at reflecting the intent of Congress that we make recommendations that do not result in an extended regulatory burden or a new regulatory layer.

Mrs. UNSOELD. Have you done any systematic survey of how those other agencies are actually performing then, and as to whether a different result would have come about if they came under the CBRA System rather than the way that other agency is currently functioning?

Ms. RECCE-LAMSON. I may have one of the members of the study group answer, if I do not respond to the question correctly. I am not aware of a systematic review of the type that you are describing. I am aware, however, at least from the Fish and Wildlife Service perspective, that they do not believe that there has been any problem with the existing review process among the Federal agencies.

Mr. BENNETT. Would the gentlelady yield?

Mrs. UNSOELD. Certainly.

Mr. BENNETT. I would like to ask, following on what she has suggested, whether thought has been given to the result of dredging for navigational projects, and how it has affected barrier islands? Because in the district that I represent, there is Black Hammock Island, which has received a lot of dredged material, some of which is poisonous; and it has been put up on the land, and the people on that island are very upset about it because the aesthetics of the island have been hurt and also the purity of the island, and some trees have died as a result of this.

I introduced a bill which said that you had to, before you undertook a dredging disposal action, to have an agreement with the state as to some program of putting the land that you attack in as good a position as you can with regard to the aesthetics and the utilization for the future. Because right now, they are building great big mountains of earth on top of pretty attractive land, killing the trees next to it and polluting the waters in the immediate stream. So this is something that is happening right now, and nobody is stopping it.

The Corps of Engineers, takes the land which the state gives them to put the earth upon and puts the earth upon it; and they have no responsibility in the matter at all. That is the present situation; and I think it ought to be corrected, either by regulation or by a statute.

I have introduced a statute which would apparently solve it; but I do know it is a problem; because I do know of it in my own experience on Black Hammock Island, which is a fairly large island, in Jacksonville, Florida. It has received this dredged material, deleterious to the marshes and things like that around it, and injurious actually to the high land. Trees have died because of it.

Have you any response to that as to what you might be able to do under existing law? Well, if not, write me a letter about it.

Ms. RECCE-LAMSON. I will do that.

Mr. STUDDS. The gentleman from Florida, Mr. Hutto.

Mr. HUTTO. Thank you, Mr. Chairman. In the State of Florida, we have a coastal construction set-back line. The only problem is that the Governor and the cabinet often grant variances; they have the authority to do so. But as I understand it, under otherwise protected lands, you probably would not include any areas that are in the coastal construction set-back line.

Is that essentially true?

Ms. RECCE-LAMSON. The only areas that would be covered under otherwise protected are lands owned or managed by groups for certain purposes. These lands have a special status under the Internal Revenue Code, and uses of these lands are fairly restrictive to ensure that these otherwise protected areas are, in fact, refuge-type, sanctuary-type, or recreational-type units.

Mr. HUTTO. Let me ask you about the military units. I believe that four military units and a Coast Guard station were on the list, and you have deleted them. Is that because they are already under Federal jurisdiction and you consider them as otherwise-protected?

Ms. RECCE-LAMSON. No, sir. Our review of military lands was conducted in the context of national security needs. We recognized that most of the activities at areas fulfill national security needs,

and therefore recommended that these areas either not be included or be deleted if they are currently part of the System.

The Department of Defense, through other mechanisms, does seek Fish and Wildlife comments on certain activities that occur on those lands. Our recommendation was based on national security considerations than on the basis of the otherwise protected criteria.

Mr. HUTTO. Can you give me the names of those installations?

Ms. RECCE-LAMSON. I will ask if we have someone on the study group that can name these areas.

Mr. MCGILVREY. Camp Lejeune in Florida.

Mr. HUTTO. Camp Lejeune, North Carolina; do you mean?

Mr. MCGILVREY. Yes, that area is in North Carolina. Another unit is part of Eglin Air Force Base in Florida; and I cannot recall the name of the big unit in the panhandle area.

Mr. HUTTO. Well, Eglin is about as big as you get.

Mr. MCGILVREY. There is another area immediately adjacent to it, also.

Mr. HUTTO. Tyndall?

Mr. MCGILVREY. Yes, Tyndall Air Force Base is the other area. Those are the three military installations.

Mr. HUTTO. You are getting pretty close to home. I don't think this matter is addressed in your testimony; but I will follow-up on that later. I am sure that this change is reflected in your maps.

Thank you.

Mr. STUDDS. The Chairman apologizes. The gentlelady from Washington apparently was not concluded; I do apologize.

Mr. HUTTO. I apologize, also.

Mr. STUDDS. It is not your fault; it is mine.

Mrs. UNSOELD. Thank you, Mr. Chairman. I am still worrying about these dredge materials. In your recommendation, you have suggested a considerable amount of aquatic lands be included. Now, those are subject to other environmental reviews, and you do not see an inconsistency there, apparently. So why should not the dredge issue?

Ms. RECCE-LAMSON. The directive by Congress to include associated aquatic habitat is part of this issue. Allow me to ask the study group for further clarification on your question.

Ms. WYMAN. Congresswoman, the definition of coastal barrier within the Act, and the purposes of the Act together, perhaps, may answer your question. The Department did not initially consider this; but pursuant to 1985 comments, we put this recommendation out for comment in 1987. There was a lot of opposition to this recommendation. If you go to the purposes of the Act, you will note, I believe in Section 2, that it provides for the protection by withdrawing Federal assistance which encourages development.

The argument can be made that the disposal of dredged materials on a coastal barrier does not necessarily encourage development of that coastal barrier; and that the disposal of dredged materials is reviewed through the regular environmental review process. I do not know whether or not including it under the Coastal Barrier Resources Act and adding a new layer of review would, in fact, resolve this problem. These other problems, I do not know.

But, as a matter of policy within the Department, we stuck with the basic tenet of the Act, which was to provide for conservation

without new regulation. We have argued all along that the States may issue their permits, and the Federal agencies may issue their permits; however, any development which does occur will occur without Federal dollars.

If they are otherwise able to meet the criteria that would be required under the general permit or environmental review process, or under the NEPA process, then they will be allowed to go forward, providing they do not use any Federal dollars to do whatever development is being proposed.

Mr. STUDDS. The gentleman from Pennsylvania?

Mr. WELDON. Thank you, Mr. Chairman, for yielding; and I apologize for being late. I had several conflicts. I also want to thank everyone for their testimony. I have read through it and I would like to state for the record that I think this is a classic example of where conservation and physical conservatism go hand-in-hand; and I applaud the CBRA legislation.

As a member of the Armed Services Committee, I note that the Act contains an exemption for all military activities that are essential for national security; and including construction, operation and maintenance of Coast Guard facilities, and access thereto. The Department, however, maintains that since most military activities are essential to national security, and all military and Coast Guard lands should be excluded from the System.

I am aware of a facility that is proposed to be built on a beach in North Carolina that is, in fact, an officer's club. I don't know how we can come to the conclusion that that is important for our national security. Perhaps you could respond to that.

Ms. WYMAN. If the military or Coast Guard areas are included in the System, pursuant to the way the Act is written, they would need to consult with the Secretary of the Interior before undertaking such activities. There is not necessarily a finding of consistency with regard to those activities. For all practical purposes, consultation concerns what they view as being in the national interest, rather than what we might view as being in the national interest.

So the Act, even with military lands included in the System, does not prohibit such activities from taking place.

Mr. WELDON. So perhaps should we consider legislative changes to that to provide the necessary teeth to——

Ms. WYMAN. If Congress chooses to clarify which types of development are in the national interest, we would not oppose that.

Mr. STUDDS. The gentleman was not here earlier; that is a demonstration of the reactive mode.

Mr. WELDON. On the issue of proposed addition of associated wetlands, I want to first of all applaud the Department for taking this step, which is going in the right direction; but noting that most of these wetlands are already protected from development already, under Section 4 for the Clean Water Act.

When you subtract the Department's proposed additions, the associated wetlands, there is very little acreage left that they are proposing to add. What would the total new acreage be if they did not count associated wetlands? And explain, if you would, why they ended up with such an ambitious proposal compared to some of the earlier draft recommendations from the Department?

Perhaps you could respond to that.

Ms. RECCE-LAMSON. Allow me to respond to the first part of the question. I missed the last part but I will answer the first part. In our recommendation, we are suggesting that over 700,000 acres be added to the System. Of that acreage, about 39,000 acres are fastland. Some 600,000 are wetland areas. In fact, the wetland areas comprise about 90 percent of the acreage recommended for addition in this report.

Mr. WELDON. About 90 percent?

Ms. RECCE-LAMSON. Correct.

Mr. WELDON. What would the total new acreage be; do you have that figure?

Ms. RECCE-LAMSON. Are you referring to the acreage of both wetlands and fastlands?

Mr. WELDON. Yes.

Ms. RECCE-LAMSON. That figure would be approximately 750,000 acres.

Mr. WELDON. Did other departments demand that DoI scale back its proposals?

Ms. RECCE-LAMSON. I am not aware of any request. At least one agency suggested that we should expand our recommendations for additions to the System.

Mr. WELDON. Which agency?

Ms. RECCE-LAMSON. EPA.

Mr. WELDON. But there were no agencies that asked you to scale back?

Ms. RECCE-LAMSON. I am not aware of any other requests.

Mr. WELDON. Did you want to add a response to that?

Ms. WYMAN. No, I am not aware that we received any formal comment from any agency making specific recommendations on what was recommended for designations.

Mr. WELDON. Mr. Chairman, I have some further questions I would like to submit for the record, if we are going to go around again. I will ask them later. Also, let me submit them for the record.

Mr. STUDDS. That is fine.

Mr. STUDDS. The gentleman from New York.

Mr. HOCHBRUECKNER. Thank you, Mr. Chairman. I also apologize for my tardy arrival. I hope my questions are not repetitive.

As you know, there is a major concern about the Greenhouse Effect and the prediction by scientists that over the next 50 years, because of the Greenhouse Effect, we could see the oceans rise by about a foot to a foot-and-a-half. This obviously would put tremendous additional pressure on the barrier beaches and, of course, is a major concern.

Is there any major initiative or direction that your group is taking, relative to how to deal with this impending disaster? Any major plan, or are we just going from year to year?

Ms. RECCE-LAMSON. Yes, I do believe that this issue is being reviewed within the Administration; it is not being reviewed study group which has otherwise been disbanded. Allow me to refer the question to Dr. Reinhardt for any response he may have.

Dr. REINHARDT. Speaking for the U.S. Geological Survey, there certainly are initiatives within our agency relative to climate change that recognize the importance of the greenhouse effect and

how we see long-term and short-term climate cycles; but the potential impact of sea-level rise is well beyond the purview of the study as it took place during the seven or so years that I have been part of the study group.

We consulted very heavily with a variety of scientists who have been concerned with why, in fact, there is such a reason for expansion of the System for exactly the reasons that you gave. But as far as our being able to incorporate any concept of dynamic change, the only real mandate that we had was to review changes in the System during the period of our study. And that was taken into account.

Mr. HOCHBRUECKNER. So you are saying at this point, you do not have any specific plans in terms of how to deal with this long-term major shift that apparently is coming?

Dr. REINHARDT. Certainly that was well beyond the scope of anything that the study group was asked to address. And as it was indicated, our mandate has really expired at this point.

Mr. HOCHBRUECKNER. I see. The second question; I would assume, as you also know, in terms of things to carry back with you wherever you are going; another major concern we have is with municipal waste. Obviously, we have a tremendous garbage problem. More than one ton of garbage per person per year is being generated in this country; and we are moving toward a crisis in terms of what to do with the garbage.

One of the directions that is being pursued, just for your information, is to take ash from municipal waste incineration, and to make cinder blocks and to create artificial reefs for two purposes. Obviously, one is to dispose more adequately of ash; and the second, of course, is to produce artificial reefs that can provide a protection for barrier beaches.

So if anyone has a comment on that, I would appreciate it. If not, at least be aware of that, because very often in life, when life gives you lemons, you try to make lemonade; and I think that this is one of the cases, in terms of what to do with our garbage.

If any of you have any comment, I would appreciate it.

Ms. RECCE-LAMSON. I believe that this subject is out of our immediate scope. At least we are assured that we are now aware of this. This suggestion may have, in fact, been reviewed by the Service's field people, who are looking at alternatives for disposal. I do not think however, that any of us here have a background on this.

Mr. HOCHBRUECKNER. Thank you, Mr. Chairman

Mr. STUDDS. I thank the gentleman. You will note that questions of global warming and the attendant possible rise of the sea is of particular concern of members who represent islands. Actually, the gentleman's concerns might be better directed to the state legislature, with respect to re-districting, I think.

The Chairman will say to members that have individual questions or problems that affect their district, and I am well-aware there are a number of them in that category, that the staff of the Subcommittee stands ready to consult with them in-depth with respect to the nature of their problems.

It has been our experience that in many cases, a careful examination has led to the conclusion there was not as much a problem as there was thought to be in the first instance, if that makes

sense. But in any event, let me remind members that nothing happens without action by the Committee and this Congress; so not to panic; not to have anybody in your constituencies panic. Staff is available for consultation, in great detail and at great length, and in great depth, for individual problems.

We will have a second round of questions, if members have them. Let me ask, if I may; you do not recommend the inclusion of otherwise protected areas in the System?

Ms. RECCE-LAMSON. Correct.

Mr. STUDDS. From your comments, I gather that is because you believe that they are all being administered in a way that is consistent with CBRA; is that correct?

Ms. RECCE-LAMSON. Yes, sir. We also recognize that in these otherwise protected areas, there is some measure of development that could take place to support recreational, scientific, and educational activities, for which many of these areas have been created.

What we have done, is to recommend that they be removed; yet, at the same time, we ask for authority to develop guidelines that would govern the types of development that would be allowable in keeping with the purposes of the Act.

Mr. STUDDS. Are you aware of any instances of genuinely troublesome development on so-called otherwise-protected areas?

Ms. RECCE-LAMSON. Would you please repeat the question?

Mr. STUDDS. Did you find any instances of really troubling development on areas that were so-called otherwise-protected?

Ms. RECCE-LAMSON. I am not aware of any, but let me canvass the table.

Mr. MCGILVREY. There are probably some State and local areas that have undertaken development that is not consistent with the purposes of the law. I do not know of any such activities at the Federal level.

Mr. STUDDS. Can you be a little more specific? I mean, from your expression, I gather you do not really want to.

Ms. WYMAN. For instance, a state recreational area would, under the definitions of the Act, be excluded from being considered an undeveloped coastal barrier. Some of these areas may have major recreational facilities, such as a convention center which they call a recreational facility; but they have been developed in a State park that we interpreted as being an otherwise-protected area, and development occurred on them.

Mr. STUDDS. Have any of those instances, including say the convention center, which I assume was not national security; that was recreation?

Ms. WYMAN. Yes.

Mr. STUDDS. Have any of those instances managed to get Federal flood insurance?

Ms. WYMAN. Yes, I would say so.

Mr. MCGILVREY. Yes.

Mr. STUDDS. Yes?

Mr. MCGILVREY. My understanding is that State structures in some States can get Federal flood insurance.

Mr. STUDDS. So we do have, at least speaking for myself, a potential problem we should look at there. Would you reactively, modally, agree with that?

Ms. RECCE-LAMSON. I do believe that by recommending that they be excluded, we also recognize that there can be development problems. That is why we are asking for the authority to develop guidelines on development which would be allowed within otherwise protected areas.

This would help to trigger automatic inclusion in the System if that threshold is exceeded.

Mr. STUDDS. Let me ask you a very general question: Obviously, when we enacted CBRA, basically we were saying to property owners or potential developers in these areas was, "If you are going to go ahead and develop, you are going to do so at your own risk; and do not expect the Federal Government or the Federal taxpayers and step in there and either subsidize you or bail you out if the worst happens."

Ms. RECCE-LAMSON. Correct.

Mr. STUDDS. In your judgment, how successful has this sanction been in halting development that would otherwise have occurred, or have we had significant incidences where people have proceeded nonetheless?

Ms. RECCE-LAMSON. As I had mentioned earlier, of the 186 units that are currently in the System, we have only identified 10 of those units that have undergone significant development. Our belief is that the development occurred before the prohibition on Federal flood insurance took effect in 1983.

It is also believed, from the information gathered by the study group, that there is no evidence of private insurance companies coming in to fill the void left by the prohibition on Federal flood insurance.

Mr. STUDDS. Just for my—I hope this is not an unreasonable question—but if it is not too much work, could you give us a list, if not complete, as comprehensive as you can, of those instances in which you are aware in otherwise-protected areas, where Federal flood insurance has been issued?

Ms. RECCE-LAMSON. Yes, sir.

Mr. STUDDS. I would appreciate that. One statistical question, if I may, and then one general observation, and we will go to other members. You estimated in your testimony the likely savings of your proposal at $997 million in reduced Federal subsidies for development, and $2.08 billion in savings from post-disaster assistance.

Do you have any estimates of the savings obtained from the enactment of CBRA to date?

Ms. RECCE-LAMSON. I am not aware of any estimates, but let me check. I see people shaking their heads no.

Mr. STUDDS. Four heads.

Ms. RECCE-LAMSON. Four heads.

[Laughter.]

Mr. STUDDS. Do you have any estimate of the likely savings that would result from the inclusion of the Great Lakes or the Pacific?

Ms. RECCE-LAMSON. No, sir.

Mr. STUDDS. Are those gettable? Is that asking too much?

Ms. WYMAN. Congressman, the Great Lakes study which we are going through right now, as you may well know, is a basic map inventory process. We are not going into a detailed report, such as

was provided to the Committee on the Atlantic and Gulf Coastal States, primarily because we were given three months to do the report.

I do not believe it would be possible to get that kind of information within the time frame we are looking at.

Mr. STUDDS. I understand that. Would it be possible to get the first part of what I asked, which is the estimate of savings obtained to date, since the enactment of the program?

Ms. RECCE-LAMSON. Let us do this.

Mr. STUDDS. I do not want to burden you. You have done a great deal of work. I am just wondering whether you have access to that kind of data.

Ms. RECCE-LAMSON. I do not know, if we have access and I do not know the extent of work that would be required, but we will check on that and we can let you know, if there is some problem, or how long it would take.

Mr. STUDDS. I would appreciate that. I do not want to spend as much as we have saved in trying to find the answer.

[Laughter.]

Ms. RECCE-LAMSON. Let us check that out.

Ms. WYMAN. Let me add that this was considered. One of the big problems when we considered including it in our report was making a determination of whether or not Federal dollars would have been spent if those areas had not been included. We have a big area, for instance, in Texas that Congress looked at, and rejected, which has still not been developed.

So, to make a determination of what would have been saved requires making pre-judgments on which areas would or would not have been developed.

Mr. STUDDS. I understand. These are not the firmest of statistics. I appreciate that. Let me just close with one personal observation, if I may.

I made fun of, but I was not being entirely light-hearted, when you began by saying, or you responded to an earlier question of mine, by saying that you, the Administration, was in a reactive mode. Let me say first of all that I think it is clear that you have done an extraordinary job. A great deal of effort has gone into this; and I think you should be very, very proud of the results of that. And I mean that, and I think I speak for all members when I say that.

Let me also tell you that it will all be in vain if you remain in a reactive mode. There is no way on Earth that we are going to enact legislation encompassing the substance of your recommendations unless the President of the United States and those who speak for him manage to get somewhere closer to leadership than a reactive mode. These are very controversial matters around the country. And in the absence of somebody in the White House and those who speak for them taking leadership and demanding that this most Republican of all ideas, this most, as somebody pointed out, genuinely conservative—it makes so damn much sense, it is hard to believe we enacted it in the first place.

It saves money. It saves lives. It saves a very fragile part of our ecology. There really is no rational reason to be against it. There is absolutely no rational reason to be in a reactive mode when consid-

ering it. It ought to be at the heart of what this Administration is talking about, if it is talking about anything.

That is a very big if at the moment. It is reactive moding all over the City. But this one is a natural. For this or virtually any other Administration of either party—and I think it would be a tragedy if you and the people who speak for the Administration on subsequent occasions cannot come up here and pound your fist on the table and say, "The President insists this be adopted." It is consistent with everything that everyone publicly says they stand for. And it is no time to be in a reactive mode.

That is not directed at you personally. And I want to re-emphasize that. I think—I hope—that you are pained by your current instructions to be in such a mode; and I hope that you will go back and convey that to the appropriate modal places; because it would be a shame to have this work just go down in history as a report.

We have a lot of work to do. It is not easy, as you very well know, in this Congress to enact something like this that touches most of the districts in the country. And I think it was Robert Kennedy who said: If no one is standing in your way, you are not going anywhere.

Well, there are plenty of people standing in the way in this one. Given the nature of this institution, we are going to require some leadership, not some reaction. So please take that message back.

Ms. RECCE-LAMSON. I will.

Mr. STUDDS. And with it, our commendations on a job very well done.

Are there additional questions by members who are here?

The gentleman from Florida?

Mr. Goss. Thank you, Mr. Chairman.

Briefly, in the post-disaster assistance scenario, something that you said triggered a thought. Is there anything in this report that rearranges the problems we have with a post-storm event? The concern has been that the Federal Flood Insurance Program does not always adhere to its guiding principles of not helping to reinvest in high hazard areas. And I know of some other departments, agencies of the Federal Government that have incurred perhaps what might be said a very strong incentive for development in high hazard areas. Perhaps Delphin Island would be as good an example as any after Hurricane Frederick went through there.

Has there been any change in that? And I guess the direct question I would ask you, in terms of Federal dollars going into the Federal Flood Program after a storm event or Federal dollars going for infrastructure for, say, a storm system or a specific public building or a street that is a Federal highway—where you have more than 50 percent destruction in a community—will those dollars flow or will they not flow?

Ms. RECCE-LAMSON. According to the act itself, all of the units included in the System would be precluded from that kind of assistance. But, as we have already suggested, the concerns about Federally subsidized investment for development in high risk areas also includes already developed coastal barriers. That is why we have asked for a study to take a look at Federal programs that would be continuing in developed areas. These programs would be considered to be high risk investments.

Mr. Goss. Well, that goes exactly, I guess, to the point. Who is going to make the distinction between what is a lesser developer or greater developed area? I can take a Miami scenario on one side of Florida I am familiar with, and I can take another coast, the west coast of Florida, directly across the way, where it is a lot less developed. But, nevertheless, there are developed barrier islands. And it would make a lot of sense in some places not to have dollars flow, and in other cases it would probably be unthinkable not to let them flow in the Miami Beach scenario.

How are we getting at that problem? Is there anything in this report that addresses that?

Ms. RECCE-LAMSON. The only part of the report that would touch on this is simply the equity issue that we have raised. We raised the issue to highlight to Congress what we think should be considered as this report is reviewed—the equity concerns we had in developing our recommendations to Congress.

There is nothing that the Department of the Interior or the study group is doing or has been charged to do regarding the impacts of subsidies in developed areas. The focus of our report was undeveloped coastal barriers. If you branch off from that, you get simply into developed areas. We have never addressed the extent of development. With this report, we made a determination between what was developed and was undeveloped, and once we got to that point, we focused on undeveloped barriers.

Mr. Goss. OK. So we are still where we were, then, with a post-disaster event. If it was designated as developed, then presumably the rules that we have been working with still apply. And if it was designated as non-developed, then those rules apply also.

Ms. RECCE-LAMSON. That is correct. The distinction is that only those System units in which are established by law are prohibited from receiving Federal subsidiesand new Federal flood insurance. The units that we are proposing for inclusion in the System, as well as any other areas outside the existing system, still may receive Federal subsidies unless there is a change in the law.

Mr. Goss. Thank you.

Mr. STUDDS. The gentleman from New Jersey.

Mr. PALLONE. Thank you, Mr. Chairman.

As I think I said before, I have one of the units in my district, and I would tend to favor inclusion of that unit. However, I just wanted to ask, in terms of selling this to the constituency or to the local officials in the area, whether or not there is any kind of incentive in terms of Federal dollars for recreational purposes.

In other words, does the fact that this area gets designated pursuant to the Act mean there would be dollars that would flow for recreation or any other kind of priority?

Ms. RECCE-LAMSON. No, there is no additional funding beyond the opportunities that already exist for acquisition. Inclusion in the system does not give that particular unit any special treatment in terms of priorities or expenditure of Federal dollars, either from the Land and Water Conservation Fund or entrance fees or the duck stamp revenues.

Mr. PALLONE. Has there been a history with regard to those units already in the System that have received Federal dollars from those programs?

Ms. RECCE-LAMSON. Are you talking about the otherwise protected areas?

Mr. PALLONE. No. I mean to say that if a unit is included in this System, is added as you suggested, to those that have already been in the System, have they benefited in any way from Federal dollars for recreation? Or have any of those been acquired by the Federal Government for parks?

Ms. RECCE-LAMSON. No, sir. Inclusion in the System has a withdrawal effect rather than a giving effect. Those units in the System would compete as any other areas might for Federal dollars. Inclusion does not accord the areas any special consideration for Federal dollars.

Mr. PALLONE. You mentioned utilities. One of the suggestions for the use of this unit in the Bay Shore area of New Jersey in the past was that a power plant be built there. Would the rules now prohibit that? You mentioned that you have exceptions for utilities, but I understood that was for utility lines, not for actual construction of a plant.

Ms. RECCE-LAMSON. That is correct.

Mr. PALLONE. Therefore, the construction of a power plant would probably be prohibited in that area?

Ms. RECCE-LAMSON. Inclusion in the System would prohibit Federal dollars from being expended for the construction of that plant. However, construction could be undertaken with non-Federal funds.

Mr. PALLONE. With respect to the last question with regard to the dredging that the gentlelady from Washington mentioned, there have been areas, possibly this area, but certainly in the vicinity—that have been suggested as disposal sites for toxic dredge materials. Perhaps an incentive for putting this unit into this System would be that it couldn't be used for that purpose.

My understanding is that the way the law is now there is nothing that would prohibit that area, even if it was part of your System, from being used for a dredge disposal site.

Ms. RECCE-LAMSON. That is correct, because the effect of the Act is one of withdrawing Federal subsidies. The Act does not control development in and of itself.

Mr. PALLONE. But I am talking about usage for dredge spoil site disposal.

Ms. RECCE-LAMSON. Dredge spoil disposal would be allowed, but allow me to get some clarification.

Mr. PALLONE. The reason I ask is because of this whole question of whether or not there would have to be consistency statements or consistency reports with regard to dredging and some of the other concerns.

It would seem to me that it would be better if there was a prohibition or certainly a way, either through consistency determination or whatever, of saying that these types of alternatives are not available. It is just another incentive to support putting this unit in the System.

Ms. RECCE-LAMSON. I understand what you are asking.

We looked at the issue of whether or not we would recommend a consistency requirement for Federal activities. We felt that those activities are otherwise covered by law and otherwise require a

permit. For example, under section 404 of the Clean Water Act or section 10 of the River and Harbors Act that deals with dredge and fill, Federal agencies which have responsibility for issuing permits are obliged to seek comments from the Fish and Wildlife Service, whether it be a NEPA or the Fish and Wildlife Coordination Act requirement. That requirement was already built into law, and we chose not to add to another layer of review by requiring a separate consistency review.

Again, that was a decision based on what already exists and what we felt to be an expression of intent by Congress to develop recommendations that would provide—that would meet the purposes of the Act without creating another regulatory or paperwork layer.

Mr. PALLONE. I see. I do not know if I agree with that, but I understand where you are coming from. Thank you.

Mr. STUDDS. The gentlemen from Pennsylvania.

Mr. WELDON. Building on the comments by my colleague, Mr. Pallone, I find it hard to understand why the department simply would not make a recommendation to all Federal permitting agencies that they act in a manner of consistency; because even though they may have come under differing regulations or laws, the fact is that hundreds of permits have, in fact, been issued. I do not understand why a recommendation has not been made to those agencies. I do not understand that.

Ms. RECCE-LAMSON. We were guided by the existing mechanisms that trigger consultation with the Department of the Interior for our views and comments on particular activities, as well as attempting not to add an additional review burden. This has bben our reasoning based on what we believe to have been the guidance of the Act.

Mr. WELDON. Yet in your draft and final report, there are examples where you give the benefits of CBRA requiring regulatory consistency, but you recommend no action to, in fact, carry out the requirements of the program. That presents a real problem for me.

Ms. RECCE-LAMSON. Each Federal agency is required in its own regulatory and permit programs to be in compliance with Federal statutes that apply to all Federal agencies. CBRA is one of those statutes. I think that, in the study group's review and in the proposed recommendations, there was concern over the department being put in the role of reviewing all Federal activities. Instead, we looked at the fact that all Federal agencies and departments have an obligation by law to ensure that their activities comply with the provisions of CBRA.

Mr. WELDON. Yet there still have been hundreds of permits issued in those areas—that is my point—even with those laws and regulations.

Let me go on to another issue, the tax policy issue, if I might. The 1986 Tax Reform Act removed several major tax incentives for coastal development, yet there is still one policy, the casualty loss deduction, that, in fact, perhaps is encouraging people to continue developing within the area and costing us revenue from the Federal standpoint.

I do not know whether you have reviewed this particular aspect of our fiscal policy, our tax policy and its impact; if you have, could

you give us your feelings on this tax policy and perhaps any lost tax revenues and what those amounts might be?

Furthermore, would it not seem to be logical that if it removed all tax incentives that it would, in fact, further the goals of CBRA? I am asking specifically about the casualty loss deduction.

Ms. RECCE-LAMSON. Mr. Congressman, if I may, I would like to bring forward Dr. Mary Watson, a biologist at the Fish and Wildlife Service's National Wetlands Research Center. She is coming to the table and may be able to answer this question.

Dr. WATSON. I do not really have anything to add. We did mention the casualty loss deduction in Volume 1 of the report, but we decided it was inappropriate to make any tax policy recommendations at this time.

Mr. WELDON. Can I ask why? Was there a reason why?

Ms. WYMAN. I can respond to that, sir. When the Department put out its proposed recommendations for changes, the proposals went out for comment in 1987, right after enactment of the 1986 tax amendments. There were several conservation recommendations that were considered during that time, some of which were rejected, some of which were adopted. As a matter of policy, the Department at that time decided not to go forward with new tax recommendations, that it was time for stability in our tax laws. However, it may be appropriate in the future—in line with the whole equity argument that we have made with regard to future studies. It may be appropriate for another study group, which may be authorized for future considerations, to take another look at this as an option.

Mr. WELDON. In your studies, did you come up with any type of dollar figure for what the lost tax revenues have been because of this? You do not have those figures? Perhaps that is something we should look at, because there is obviously an incentive there, actually a disincentive in terms of the goals of CBRA.

Thank you, Mr. Chairman.

Mr. STUDDS. Any further questions? If not, we thank you once again, and the subcommittee stands adjourned.

[Whereupon, at 11:56 a.m., the subcommittee was adjourned, subject to the call of the Chair.]

[The following was submitted for the record.]

STATEMENT OF SUSAN RECE-LAMSON, DEPUTY ASSISTANT SECRETARY FOR FISH AND WILDLIFE AND PARKS, DEPARTMENT OF THE INTERIOR, BEFORE THE SUBCOMMITTEE ON FISHERIES AND WILDLIFE CONSERVATION AND THE ENVIRONMENT AND THE SUBCOMMITTEE ON OCEANOGRAPHY, COMMITTEE ON MERCHANT MARINE AND FISHERIES, U.S. HOUSE OF REPRESENTATIVES, REGARDING THE DEPARTMENT OF INTERIOR'S FINAL COASTAL BARRIERS RECOMMENDATIONS

March 22, 1989

Mr. Chairmen, I appreciate the opportunity to appear before you today to describe the final recommendations of the Department of the Interior (Department) pursuant to section 10 of the 1982 Coastal Barriers Resources Act (CBRA) (16 (U.S.C. 3501 et seq.). In addition to summarizing the recommendations, I would like to provide background information on the ecological importance of coastal barriers, provisions contained in the 1982 statute, Departmental efforts prior to release of these recommendations, and a summary of the recommendations, including an overall assessment of their likely impact.

THE NATURE OF COASTAL BARRIERS

Section 3(1)(A) of CBRA defines a coastal barrier as "a depositional feature (such as a bay barrier, tombolo, barrier spit, or barrier island) that -- (i) consists of unconsolidated sedimentary materials, (ii) is subject to wave, tidal, and wind energies, and (iii) protects landward aquatic habitats from direct wave attack". When CBRA was enacted in 1982, Congress included only coastal barriers on the Atlantic Ocean and Gulf of Mexico coastlines. These areas constitute one of the longest and best defined chains of coastal barriers in the world. From Maine to

south Texas, coastal barriers stretch like protective ribbons along 2700 miles of U.S. shorelines. These barriers absorb ocean energies, buffering associated wetlands and the mainland from daily waves and tides as well as occasional hurricanes and northeasters.

Coastal barrier habitats and their associated wetlands support a tremendous variety of organisms. Millions of fish, shellfish, birds, mammals, and other wildlife depend on barriers and their wetlands for vital feeding, spawning, nesting, nursery, and resting habitat. Often the highest diversity of wildlife on coastal barriers is found at the edge between marshland and upland, or land and water.

Undeveloped sandy coastal barriers exist in a state of dynamic equilibrium as they constantly respond to the varying assaults of wind and water. Sand is shared between offshore sand bars, the barrier beach, the dunes, and, over the longer term, the entire land mass of the barrier. As sand is eroded from one part of the barrier, it is deposited somewhere else. During storms, the barrier retreats from the direct attack of the ocean through the overwash process. Large storm waves push through the dunes and sometimes across entire islands, depositing fans of sediment behind the dunes or in the soundside marshes. The overwash process also permits barriers to survive the worldwide rise in sea level by somersaulting backwards up the coastal plain.

Coastal barriers are difficult places for human habitation due to this dynamic environment. Structures built too close to the

shoreline are quickly threatened by an eroding beach. Hurricanes and northeasters can threaten property virtually anywhere on a barrier. Without associated coastal barriers, large population centers on the mainland would be threatened by the direct assault of the sea.

Prior to World War II, more than 90 percent of the Nation's coastal barrier real estate existed as undeveloped natural areas. This situation has changed dramatically over the past four decades, however, as increased affluence and Federal subsidies have led to extensive development. Due to the large number of people exposed to potential hurricane storm surges as well as the disaster aid obligations attributable to coastal damage, protection of coastal development is both complex and costly.

ENACTMENT OF THE COASTAL BARRIER RESOURCES ACT

The CBRA of 1982 represented the culmination of several years of study by Congress and the Department of the Interior regarding Federal programs and how they affect the development of coastal barriers. Studies initiated by the Department in 1977 assessed options for modifying about 40 Federal programs affecting coastal barriers, including the National Flood Insurance Program. The results of these studies were released in a draft Environmental Impact Statement (EIS) in January 1980.

In passing CBRA, the Congress specifically stipulated the three objectives of minimizing the loss of human life, the wasteful expenditure of Federal revenues, and the damage to fish, wildlife,

and other natural resources associated with the coastal barriers along the Gulf and Atlantic coastlines. The principal mechanism for achieving these objectives was to limit, with certain exceptions, new Federal expenditures and new Federal assistance for development activities within designated undeveloped coastal barriers units.

Additional provisions in the statute stipulated that no new flood insurance coverage could be provided after October 1, 1983, for any new construction or substantial improvements of structures located on any of these designated units. Enactment of these provisions signaled Congressional intent to transfer the risks associated with development on coastal barriers to those who choose to live on and invest in these areas.

The CBRA established the Coastal Barrier Resources System (System) within which the limitations on Federal assistance would apply. The System presently consists of 186 undeveloped coastal barrier units totalling 452,834 acres and 666.6 miles of shoreline along the Atlantic Ocean and Gulf of Mexico coastlines.

The units incorporated in the System were based on a listing of undeveloped coastal barriers provided to the Congress by the Secretary of Interior in 1982 prior to enactment of the CBRA. Development of this list predated CBRA and was based on statutory requirements contained in the 1981 Omnibus Budget Reconciliation Act (OBRA). OBRA had specifically required that the Secretary of the Interior designate coastal barriers based on a definition provided in the statute and report to Congress, with

recommendations (if any) relating to the term "coastal barrier." Since the focus of OBRA was on Federal flood insurance, delineations by the Department focused on the fastland portion of the sand barrier and structures constructed on barrier units. With the enactment of CBRA, the funding limitations were extended to most categories of Federal development assistance with the exception of the categories identified in Section 6 of CBRA.

SECTION 10 REQUIREMENTS

In addition to the funding limitations contained in CBRA, Section 10 of this statute required the Department, in consultation with the States in which System units are located, to prepare and submit to Congress a report containing:

(1) recommendations for the conservation of fish, wildlife, and other natural resources of the System;

(2) recommendations for additions to, or deletions from, the System, and for modifications to the boundaries of System units;

(3) a summary of the comments received from the Governors of the States, State coastal zone management agencies, other government officials, and the public regarding the System; and

(4) an analysis of the effects, if any, that general revenue sharing grants made under Section 102 of the State and Local Fiscal Assistance Amendments of 1972 have had on undeveloped coastal barriers.

On December 5, 1983, the Department published in the Federal Register an outline of the studies it was undertaking to prepare the section 10 report. Public comments on the study plan were accepted through February 1, 1984.

In the spring of 1985, the Department issued a draft map inventory of undeveloped coastal barriers on all U.S. coastlines and a draft text report on conservation alternatives for the System. These documents were made available for public review as part of the information-gathering process; they did not include recommendations, but provided a range of alternatives that could be used as the basis for recommendations to Congress.

On September 30, 1985, the Department closed the public comment period on the report and inventory. The Department received over 2300 comments on the documents. A wide variety of viewpoints were expressed on the possibility of expanding the System to include other coastlines, secondary barriers, and expanded aquatic habitat. A variety of opinions were also expressed on the conservation alternatives.

In addition to soliciting written public comments through the Federal Register, Departmental representatives met with State and local officials, and attended 26 public meetings or workshops. Various options for expansion were evaluated to increase the Department's understanding of coastal barriers and their locations and status around the Nation.

During March 1987 the Department issued a second draft report containing proposed recommendations to Congress. Public comments on the draft report and proposed recommendations were solicited and accepted for a 90-day period, closing June 23, 1987. More than 6150 individuals commented. Opinions were expressed on each category of recommendations and on many of the geographically specific draft recommendations concerning modifications of existing System units and proposed new units. Both categories of comments are contained in the Department's report.

In 1988 the Department prepared a supplemental Legislative Environmental Impact Statement (LEIS) to assess the specific environmental and economic impacts of the Department's recommendations to Congress. The LEIS represented a supplement to the final environmental statement which was made available by the Department in 1983. This earlier statement reflected the fact that the 1982 Act had expanded the prohibition on expenditures from flood insurance to encompass all Federal programs that expend funds or provide financial assistance in support of development, unless specifically exempted or permitted by the Act. The draft supplemental LEIS was released for public comment on February 1, 1988; the Department announced the availability of the final supplemental LEIS on December 16, 1988.

At the same time the Department announced the availability of the final report and recommendations. The report was formally transmitted to Congress on January 18, 1989, following completion of the NEPA process.

The final report consists of 22 volumes, with four annexes and an Executive Summary. It was compiled under the direction of the Assistant Secretary for Fish and Wildlife and Parks by the Coastal Barriers Study Group, a task force of professionals representing the National Park Service, U.S. Fish and Wildlife Service, and U.S. Geological Survey.

Volume I of the report describes the System and discusses and presents recommendations on conservation and management alternatives for the System. It also includes a description of the delineation criteria used in the study and an analysis of the impacts of general revenue sharing funds on the System. Volumes 2 - 22 contain background information about each Atlantic and Gulf State and territory's coastal barriers and coastal programs, maps of undeveloped coastal barriers, and recommendations for specific additions to, deletions from, or modifications of the boundaries of the System.

SUMMARY OF FINAL RECOMMENDATIONS

Additions To Or Deletions From the System -- The Department recommends that approximately 790,884 acres of coastal barrier lands (fastlands and wetlands) and 423 miles of shoreline be added to the System. Most of this acreage consists of wetlands. This would represent a significant expansion over the System which currently contains 452,834 acres and 666.6 shoreline miles. The recommended acreage figures are based on categories of geographic-specific recommendations which are summarized as follows:

(1) Definition of Coastal Barriers -- The statutory definition of "coastal barrier" describes the barriers as landforms that consist of "unconsolidated sedimentary materials." Although coastal barriers generally consist entirely of unconsolidated sediments composed of sand or gravel, sediments can sometimes be consolidated or include silt or clay, cobbles or larger rocks. Areas that contain carbonate-cemented deposits (such as the Florida Keys), areas that consist primarily of silt and clay (such as fringing mangroves and cheniers) and areas that contain discontinuous outcrops of bedrock or coarse glacial deposits have been identified by the Department as functioning coastal barriers even though they do not conform to the usual definition.

The Department, therefore, recommends that the definition of coastal barriers in the Act be amended by deleting the reference to unconsolidated sedimentary materials.

The Department also recommends that all undeveloped unprotected coastal barrier areas meeting Departmental study criteria be added to the System and that any coastal barrier areas not meeting the criteria that were included in the System in 1982 be deleted from the System.

(2) Geographic Scope -- When CBRA was passed in 1982, Congress only included coastal barriers on the Atlantic Ocean and Gulf of Mexico coastlines in the System. Neither the statute nor the legislative history indicates that Congress intended to expand the System to include other coastlines.

During 1983 - 1985, however, the Coastal Barriers Study Group gathered preliminary information about undeveloped coastal barriers on all U.S. coastlines. Although this endeavor resulted in a large amount of data, the Department did not make specific recommendations about the undeveloped coastal barriers along the Great Lakes, Pacific Coast, Alaska, Hawaii, and American Samoa in this report. The Department indicated it would not complete those studies unless Congress enacted legislation directing it to do so.

Section 204 of the 1988 amendments to the Disaster Relief Act which was signed into public law last November, requires the Secretary of the Interior to make recommendations and prepare maps identifying undeveloped coastal barriers along the Great Lakes that are appropriate for inclusion in the System. The Department, accordingly, is addressing this statutory mandate. The comment period has closed and after review of the comments, the Department will provide final maps to the Congress.

(3) Associated Aquatic Habitat -- Language contained in CBRA defines an "undeveloped coastal barrier" to include "all associated aquatic habitat, including the adjacent wetlands, marshes, estuaries, inlets and nearshore waters." The existing units in the System include only minimum aquatic habitat in response to the statutory directive contained in OBRA. Since the focus of OBRA concerned Federal flood insurance for structures built on barriers, the Department's delineations focused on the fastland portion of the barrier where residential development might occur.

The associated aquatic habitat, however, is an essential component of the barrier's ecosystem. This habitat area includes all wetlands (e.g. tidal flats, swamps, mangroves and marshes), lagoons, estuaries, coves between the barrier and the mainland, inlets, the nearshore waters seaward of the coastal barrier including the sand-sharing system, and in some tropical areas, the coral reefs associated with nearshore mangroves. These habitats are critically important to many fish and wildlife species, including most of the Nation's commercial fish and shellfish harvest.

The Department has recommended that all aquatic habitats associated with the existing units in the System and those included in the recommended new units be added to the System. In delineating these areas, the associated aquatic habitat is considered to be the entire area subject to diminished wind, wave and tidal energy due to the presence of the coastal barriers. It has been delineated to include up to a 1-mile expanse of open water or a 5-mile expanse of marsh behind a barrier.

(4) Navigation Channels -- The draft recommendations issued in 1987 to add the associated aquatic habitat to the System resulted in the inclusion of several Federal navigation channels. The implications of this draft recommendation concerned many commentors, including many State and local officials, due to potential impacts from the loss of Federal funding for channel improvements and port development activities. Although the planning for many of these projects had been ongoing for many years, these projects did not receive an authorization for construction until 1986, with the enactment of the 1986 Water Resources Development Act (P.L. 99-662).

In its final recommendations, the Department has adjusted the recommended boundaries of several individual units to exclude major shipping channels. In addition, the Department recommends specifically excluding all existing Federal navigation channels, including the Intracoastal Waterway, by reference, to allow related navigational activity. We would like to

emphasize that this exclusion recognizes the importance of navigational areas but is not intended to promote development in adjacent areas.

(5) Secondary Barriers -- These barriers are located in large, well defined bays (e.g. Chesapeake Bay) or in lagoons on the mainland side of the barrier if a suitable sediment source and sufficient wind, wave, and tidal energies exist. Secondary barriers also protect critical fish and wildlife habitat and provide substantial protection for the mainland during major storms. The Department, accordingly, has recommended that secondary barriers be added to the System.

(6) "Otherwise-Protected" Coastal Barriers -- Section 3(B) of CBRA specifically exempted barriers which are "included within the boundaries of an area established under Federal, State, or local law, or held by a qualified organization as defined in section 170(h)(3) of the 1954 Internal Revenue Code, primarily for wildlife refuge, sanctuary, recreational, or natural resource conservation purposes." Approximately one-third (34%) of the Atlantic and Gulf coastlines are included in this category.

The 1982 "Report to Congress on Undeveloped Coastal Barriers" recommended that these areas be included to ensure that private property owners within the boundaries of these areas (i.e. inholdings) not be granted Federal flood insurance. A review of these areas, however, reveals that most of the Federally subsidized development occurring in otherwise protected areas is necessary to provide public access and accommodate visitors. Most of the barriers are undeveloped, containing either scattered public and private development of a temporary or minimal nature or a single developed area of bathhouses or other facilities to support beach-oriented recreation.

The Department has recommended that all inholdings on otherwise protected undeveloped coastal barriers be included in the System. Where accurate maps of inholdings were available, the Department has included the inholdings on the proposed System maps. Where such information was lacking, the Department has recommended that the inholdings be included by reference.

In addition, the Department has recommended that all otherwise protected areas in the existing System be deleted. As a corollary to this recommendation, however, the Department advocates automatic inclusion in the System for any public or privately owned otherwise-protected undeveloped coastal barrier if it is made available for development which is inconsistent

with the purposes of the Act and the long-term preservation of the barrier.

(7) Military and Coast Guard Lands -- Three military installations and one Coast Guard station were included in the System in 1982. At the same time, however, "military activities essential to national security" and the "construction, operation, maintenance and rehabilitation of Coast Guard facilities and access thereto" were exempted from limitations on Federal funding, following consultation with the Secretary of Interior.

It is the Department's understanding that most military activities along the Atlantic and Gulf coastlines are essential to national security. Compliance with the National Environmental Policy Act and other environmental safeguards is required of the military and Coast Guard. The Department, accordingly, has recommended that no new military or Coast Guard lands be added to the System and that the one Coast Guard and three military units which were included in 1982 be deleted from the System.

Conservation Recommendations

The philosophy contained in CBRA has been to either withdraw or restrict Federal expenditures which encourage development on undeveloped coastal barriers. This philosophy has represented a departure from Federal efforts to protect the natural resources associated with coastal barriers via regulation or acquisition. During the study period, numerous recommendations related to surplus property, land acquisition, regulatory approaches, and land acquisition were considered. Final recommendations for each of these categories follow:

(1) Acquisition -- As mentioned previously, more than 90 percent of the Nation's coastal barriers were undeveloped prior to World War II and were generally inaccessible to the general public. That situation has changed, however. Today, the National Park Service administers nine National Seashores along the Atlantic and Gulf shorelines, encompassing approximately 500

shoreline miles and 400,000 acres of land. The Fish and Wildlife Service manages about 50 National Wildlife Refuges along these coastlines.

Although the primary purpose of State and local parks has been to provide beaches for recreation, these areas often include substantial areas of dunes and wetland conserved as open space. Acquisition programs in the coastal States and private sector have accelerated in recent years as competition for remaining undeveloped coastal barrier acreage has increased.

The Department has recommended that the Federal Government continue to employ the user fee concept in the acquisition of coastal barrier land. This concept would be similar to that contained in the 1986 Emergency Wetland Resources Act (P.L. 99-645) or the Migratory Bird Hunting and Conservation Stamp Act (16 U.S.C. 718 et seq.). This law authorizes funding sources for Federal acquisition of wetlands, such as entrance fees at National Wildlife Refuges and proceeds from the sale of duck stamps.

In addition, the Department is recommending that State and local land-managing agencies, as well as private organizations, be encouraged to pursue acquisition of coastal barriers as appropriate. If any of the lands acquired become "otherwise-protected," the Department recommends that they automatically be deleted from the System and be exempt from the funding restrictions since they are usually made available for recreational use by the general public.

(2) Surplus or Excess Federal Property -- The CBRA does not include provisions with respect to surplus or excess property despite the significant acreage of Federal holdings on Atlantic and Gulf coastal barriers. The Department recommends that CBRA be amended to require that undeveloped portions of surplus or excess Federal coastal barriers property be included in the System prior to their disposal. Inclusion would be contingent upon a determination by the General Services Administration, in consultation with the Department of Interior, that such lands are appropriate for inclusion in the System. Those lands which become "otherwise protected" are not recommended for inclusion.

(3) Regulatory Consistency -- CBRA restricts Federal expenditures which encourage development in the System; however, it does not preclude Federal agencies from issuing permits or licenses for activities within or adjacent to System units. Permit programs administered at the Federal level concern many activities on coastal barriers and their associated aquatic habitat. Such activities include the construction of causeways,

bridges and docks, and infrastructure components, such as utility crossings and wastewater treatment plants. In reviewing permits issued since 1982 for construction in or adjacent to coastal barriers, it has been determined that the largest number have been issued to construct individual boat docks or marinas.

The Department has not recommended that regulatory consistency be incorporated in the implementation of the Coastal Barrier Resources System. Requiring regulatory consistency would depart from the basic premise of the 1982 statute -- that conservation can be achieved by withdrawing Federal development monies rather than by increasing Federal regulatory involvement. The major Federal activities which affect the System, such as dredge and fill activities and bridge construction, undergo appropriate environmental assessments as part of the permit and licensing process.

(4) Tax Policy Alternatives -- During the Section 10 study period, considerable attention was given to possible tax amendments to conserve undeveloped coastal barriers. This effort was based on the recognition that tax exclusions and deductions significantly affect the allocation of economic resources, including decisions on coastal property. The 1986 Tax Reform Act reduced the incentives to develop coastal barrier property, however, through such means as elimination of long-term capital gains deductions, limitation of casualty loss deductions, restriction of depreciation to the straight-line method over a longer period of time, restriction of interest deductions, elimination of investment tax credits, and imposition of at-risk limitations on real estate holdings.

Since 1986, the Department has instead focused on tax incentives to encourage conservation of coastal barrier lands. The Department has been assured by the Department of the Treasury that the interpretation of the provisions concerning donations of conservation easements has not adversely affected charitable contributions within the System. No tax amendments, therefore, are being recommended at this time. It is the Department's belief that, having recently accomplished major tax reforms, that a period of stability and certainty in tax law is needed.

(5) Other Amendments to CBRA --

(a) Limitations on Federal Funding -- Section 5 of CBRA stipulates the activities for which Federal funding is prohibited and lists exceptions to the prohibition. Although the statutory language makes clear that the limitations on funding apply to areas within the System, questions have arisen regarding whether Federal monies

can be used to support a project that is not located in a unit of the System but which might have a substantial impact on a unit in the System. Since 1982, decisions have been made by Federal agencies indicating that Federal funds could not be expended for certain activities, such as expanded service for a wastewater treatment facility, if the expanded service would be for a unit in the System. The Department has concluded that questions of this nature are being answered on a case-by-case basis and that changes to the section 5 provisions are therefore unnecessary.

(b) Exceptions to the General Prohibition on Funding -- Section 6 of CBRA lists exceptions to the general prohibitions contained in Section 5(a) on Federal expenditures. Federal agencies must consult with the Department prior to obligating funds for any of the exceptions permitted. Section 6(a)(3) allows the expenditure of funds in System units for the "maintenance, replacement, reconstruction or repair but not the expansion of publicly owned or publicly operated roads, structures, or facilities that are essential links in a larger network or system." Although questions have arisen regarding the applicability of this provision, the Department does not believe that any amendments to Section 6(a)(3) are necessary.

(c) Essential Line (Utilities) -- Concerns have arisen regarding utility services. A common fear has been the inability to provide services to areas on developed coastal barriers, such as wastewater treatment plants, due to the recommendation to include the associated aquatic habitat. This is based on the cost of crossing associated aquatic habitat in the absence of any Federal financial assistance.

The Department is recommending that section 6 of CBRA be amended for two purposes. The first would be to authorize the use of Federal funds to install "essential lines" through System units where no practicable alternative route exists in order to service one or more developed areas on coastal barriers outside of the System. The second would be to provide service to developments within the System from existing lines or "essential lines" which cross through the System, provided that service can be supplied with no additional cost to the Federal Government. In the latter situation, if any upgrades are necessary to accomodate service within System units, the Department recommends that such costs be borne by non-Federal parties.

(d) Dredged Material Disposal -- Section 6(a)(2) of CBRA allows dredged material attendant to channel and maintenance improvements to be disposed of within a CBRS

unit subsequent to consultation with the Department of Interior. The Department has recommended no change to this section of the law. Dredged material disposal is already regulated by Federal programs that take fish and wildlife values into account.

(e) Recreational Projects -- No amendments have been recommended to section 9(a)(6)(A) of CBRA, which authorizes the expenditure of Federal funds for fish and wildlife conservation and management purposes, including recreational projects within System units. Despite some concerns expressed regarding the use of Federal funds for recreational purposes, it has not been deemed to be a wasteful expenditure of Federal funds if the general public benefits from such recreational projects.

(f) Federal Agency Compliance and Block Grants -- The monitoring of Federal expenditures from block grants is particularly difficult due to the open-ended nature of the disbursements. The Department, however, does not believe that an amendment is necessary to address block grants since most agencies have incorporated related compliance directives into their regular procedures. To the extent that block grants are provided, the benefits of establishing a detailed monitoring system would be outweighed by the implementation costs.

(g) OMB Certification -- Under the existing provisions of CBRA, OMB is required to annually certify agency compliance with provisions of this statute. The Department has recommended that section 7 of CBRA be amended to require each Federal agency to self-certify compliance with the statute's provisions. This certification would be submitted to Congress on an annual basis. The current certification process is cumbersome and OMB does not have the capability required to audit agency expenditures.

ASSESSMENT OF FINAL RECOMMENDATIONS

As noted previously, the Department released its final supplemental LEIS during December of 1988. This document assesses the environmental consequences of the final recommendations described as the Proposed Action in the LEIS. The Proposed Action

would approximately triple the acreage and add about 423 miles of shoreline to the System.

This document indicates that adoption of the Department's recommendations would result in a reduction, albeit unquantified, in development of the undeveloped coastal barriers proposed for inclusion in the System. This is based on several factors, including the fact that private lending institutions are generally unwilling to make loans for development where Federal flood insurance is not available for coastal barriers. Any decline in the rate of development, in turn, would be expected to assist in maintaining the natural geological and ecological characteristics of the barriers.

The effects of reduced or delayed development on natural processes should be greatest in Florida and the Carribean, where large additions are proposed and the largest acreages of potentially developable fastland are available. In the Northeast and Mid-Atlantic States, the proposed additions are mostly secondary barriers, which have a lower suitability for development. Although Louisiana has the largest acreage proposed for addition of any of the coastal States, the vast majority of this acreage is associated aquatic habitat that is generally unsuitable for development. Most of the potentially developable land is in the chenier region of southwestern Louisiana.

The socio-economic effects of the proposal have also been assessed from several perspectives, including the loss of local development monies for municipalities, the potential decrease in market values

of property, and, conversely, the savings to the U.S. treasury due to the withdrawal of Federal subsidies. According to the final supplemental LEIS, approximately 80 percent of the proposed additions, excluding the secondary barriers and the associated aquatic habitat in Louisiana, are located near established communities. Development of these areas would have economic benefits for local markets, employment, and tax bases over the short term. Federal subsidies for post-disaster reconstruction, in fact, could result in even higher levels of development than existed on the barrier before the storm.

The principal economic impact of curtailing Federal flood insurance and other Federal development assistance programs would be expected to be on owners and developers of coastal barrier property. Economic impacts would range from probable declines in market value of property to the unavailability of bank financing for individuals wanting to construct personal residences. It is generally recognized, however, that it is difficult to correlate the effects on market values associated with inclusion in the System. According to the final supplemental LEIS, there are no data to indicate whether or not development pressures have increased, thereby increasing property values, on nearby coastal barriers that are not included in the System.

With respect to the overall impacts to local areas, it is likely that local communities under intense development pressure and located adjacent to System units would experience some negative economic impacts. This trend would imply that local communities in Florida (especially the Keys), Puerto Rico, and the U.S. Virgin

Islands potentially may experience economic impacts from the proposal.

In enacting CBRA, Congress indicated several purposes for the legislation, including minimizing the loss of human life and wasteful expenditure of Federal funds associated with the development of coastal barriers. The final supplemental LEIS acknowledges that public safety will be improved to the extent that development is limited due to the fact that fewer people will be exposed to severe storms. Lastly, that document estimates the potential savings to the Federal Government if the proposal is accepted. The figure is estimated at $997 million and is based on the likely costs of extending Federal development assistance to the amount of potentially developable land, estimated as 39,000 acres of fastland. Actual savings from post-disaster assistance are estimated at $2.08 billion.

CONSERVATION OF DEVELOPED ATLANTIC AND GULF COASTAL BARRIERS

Most of the actions taken at the Federal level to conserve coastal barriers have focused on undeveloped coastal barriers in the interest of precluding development on these lands. The Department's final recommendations perpetuate this trend since its review of coastal barriers has been strictly concerned with undeveloped coastal barriers.

At the same time, however, the Department is cognizant of the "equity" questions that have arisen due to this categorical

treatment. There are many coastal areas outside the System that are either developed or are not qualified for inclusion in the System under DOI criteria which may continue to receive Federal funding for both new development and redevelopment after storms. Continued Federal assistance in these areas raises equity questions among those who were denied such assistance when their property was included in the System.

Growth on developed coastal barriers, as well as reconstruction activities, coupled with the problem of sea-level rise, will contribute to the deterioration of coastal barriers along the Gulf and Atlantic as long as the Federal Government supports development and post-storm reconstruction on these barriers (approximately one-third of the Atlantic and Gulf coastlines). In addition, there is ample evidence to show that Federal subsidies support reconstruction, often increasing the Federal investment in coastal communities that experience repeated destruction by storms.

A final recommendation in our report proposes that Congress enact legislation directing that a related study be undertaken by the Departments of the Interior, Transportation, Commerce, and Agriculture, as well as the Army Corps of Engineers, the Environmental Protection Agency, and the Federal Energy Management Agency, in consultation with the States. The purpose of this study would be to develop additional options to address Federal subsidies on all coastal barrier areas, both developed and undeveloped, for consideration by Congress.

CONCLUSION

In conclusion, Mr. Chairmen, I would like to emphasize the importance of coastal barrier ecosystems to the conservation of fish and wildlife habitat. Our 28-volume report and LEIS is the culmination of several years of study by the Department's Coastal Barriers Study Group. We believe the recommendations contained in the report, if enacted, would have a significant impact on conserving undeveloped coastal barriers along the Atlantic and Gulf shorelines.

I would also like to emphasize that our proposal consists of technical recommendations from the Executive Branch and are advisory in nature. Affirmative action must be taken by the Congress in order for any changes to be made in the Act or the current System, including additions to or deletions from, the System. We would be happy to provide technical assistance to the Subcommittees as you deliberate on this proposal. I will be pleased to answer any questions the Subcommittees may have.

United States Department of the Interior
FISH AND WILDLIFE SERVICE
WASHINGTON, D.C. 20240

ADDRESS ONLY THE DIRECTOR,
FISH AND WILDLIFE SERVICE

MAY 9

In Reply Refer To:
FWS/LS

Honorable Gerry E. Studds
Chairman, Subcommittee on Fisheries
Wildlife Conservation, and the Environment
Committee on Merchant Marine and Fisheries
House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

At the March 22 hearing on the Department of the Interior's report on the Coastal Barrier Resources System, you requested additional information concerning: (1) instances in which Federal flood insurance has been provided for development activities within "otherwise-protected" areas, and (2) estimates of savings to the U.S. Treasury since enactment of the Coastal Barrier Resources Act.

I hope that the enclosed information is responsive to your requests. Please let me know if there is anything further that we can provide.

Sincerely,

Enclosures

cc: Honorable Walter Jones
Honorable Robert Davis
Honorable Don Young
Honorable Norman Shumway
Honorable Dennis Hertel

OTHERWISE-PROTECTED AREAS

Although the Department's Report to Congress on the Coastal Barrier Resources System depicts "otherwise-protected" areas on each of the coastal atlases, these areas are exempted by section 3(1)(B)(ii) of the Coastal Barrier Resources Act.

No attempt was made to inventory development activities within these units. The Department's awareness is limited concerning such activities that may be contrary to the intent of the Act and yet have received Federal flood insurance. We are aware that Federal flood insurance has been available, however, for a convention center and rental condominium units that the State of Alabama has constructed within Gulf State Park.

ESTIMATED SAVINGS TO U.S. TREASURY

Savings Estimates -- Proposed Additions to the System

The Department of Interior's Report to Congress on the Coastal Barrier Resources System contains estimates of potential savings to the U.S. Treasury if the additional acreage proposed is included in the System. The acreage proposed for addition to the System totals 790,884 acres. Approximately 39,000 acres of the proposed additions are fastlands.

The Final Supplemental Legislative Environmental Impact Statement contains estimates of the total cost to the Federal Government of extending assistance to all of the potentially developable land in the proposed additions. The total estimated cost is approximately $997 million over a 20-year period of development.

This figure is based on analyses conducted by H. Crane Miller in 1981 which concluded that the cost of extending then current Federal assistance programs to undeveloped coastal barriers was approximately $25,570 per developed acre in 1980 dollars. Assistance included in these estimates were monies for the construction of roads, bridges, airports, water and sewer systems, for Federal flood insurance, and for disaster relief. The total estimated cost to the Federal Government of extending assistance to all of the potentially developable land in the proposed additions, i.e. the fastlands, is about $997 million over the period of development ($25,570 multiplied by 39,000 acres).

Replacement costs for post-disaster redevelopment of coastal barriers have also been estimated as $53,250 per developed acre. Based on the 39,000 acres of fastland recommended, these figures would translate to a total replacement cost of $2.08 billion for the proposed additions. That is the amount that could be saved in addition to the development assistance savings, by forgoing post-disaster redevelopment assistance in these areas.

Savings Estimates -- Current System

The Department's report does not contain any estimates of the savings to the U.S. Treasury to date, based on the 186 units included in the System by the Act. An estimate of these savings can be made, however, by applying the analysis utilized by H. Crane Miller in its 1981 studies. The assumptions underlying this analysis follow, along with the resulting figures.

Assumptions

- All fastland acreage included in the system would have been developed if it were not included in the System. The fastland acreage which was included in 1982 and is still within the system totals 100,934 acres.

- The estimated cost of extending the current Federal assistance programs to undeveloped barriers is approximately $25,570 per developed acre in 1980 dollars. Assistance covers Federal costs for roads, bridges, water and sewer systems, Federal flood insurance, disaster relief, and shore protection. This figure is based on 1980 Federal/State cost-sharing formulas and the subsidy occurs over a twenty-year period of development.

  100,934 acres x $25,570 = $2,580,882,380 ($2.6 billion)

- These figures assume that the rate of subsidization is constant over the twenty-year period of development. Federal subsidies (except Federal flood insurance) were withdrawn October 1, 1982; the time frame since this time is 6.5 years. These subsidies account for 94 percent of the total Federal subsidy. Federal flood insurance was withdrawn commencing October 1, 1983; the amount of time since this cutoff is 5.5 years. Federal flood insurance accounts for 6 percent of the total Federal subsidy.

Federal Assistance (Minus Flood Insurance)

6.5 years/20 years x .94 (2,580,882,380) =

.325 x 2,426,029,437 = $788,459,567

Federal Flood Insurance

5.5 years/20 years x .06 (2,580,882,380) =

.275 x $154,852,942 = $42,584,559

Federal Assistance Costs (Minus Flood Insurance):

$788,459,567

Federal Flood Insurance:

$42,584,559

Total:

$831,044,126

Estimated Savings To Date (Based on the assumptions previously listed):

$831,044,126

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